# Interpreting *Ribā*: A Study of the Views of Islamic Scholars from Kerala

A dissertation submitted to the University of Hyderabad in partial fulfilment of the requirements for the award of

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By


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## CERTIFICATE

This is to certify that the dissertation entitled **"Interpreting *Ribā*: A Study of the Views of Islamic Scholars from Kerala"** submitted by **Shahna. P** bearing **Regd. No. 19SPHL03** in partial fulfilment of the requirements for the award of **Master of Philosophy** in **Political Science** is a bona fide work carried out by her under my supervision and guidance which is a Plagiarism free dissertation.

The dissertation has not been submitted previously in part or in full to this or any other University or Institution for the award of any degree or diploma.

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## DECLARATION

I, **Shahna. P**, hereby declare that the dissertation entitled **"Interpreting *Ribā*: A Study of the Views of Islamic Scholars from Kerala"** submitted by me under the guidance and supervision of **Prof. Sanjay Palshikar** is a bona fide research work which is also free from plagiarism. I also declare that it has not been submitted previously in part or in full to this university or any other university or institution for the award of any degree or diploma. I hereby agree that my dissertation can be deposited in Shodhganga/INFLIBNET.

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Although Indira Gandhi Memorial Library has a great collection of books, it doesn't have many works in my research area, so I had to rely on soft copies of books available online. Majority of the works cited in this thesis were from online sources. I want to express my gratitude to the websites like Internet Archive, Library Genesis, Sci- Hub, Google Books, Hathi Trust Digital Library etc., for providing free access to their materials. Also, I extensively utilised works from Mappila Heritage Library, and I am thankful to the library management and staff for preserving valuable information about the Muslim community in Kerala. Besides this, I would like to acknowledge that Dr. Toon Van Houdt shared his article, which was then unpublished, with me. I am deeply touched by his generosity. Furthermore, I would like to thank my cousin - Shaheer, my childhood Madrasa teacher – Sainudheen Ustād, and my Arabic teacher in school- Mustafa Sir, for lending their books without any reservation. My uncle, Muhammed, and my brother-in-law, Favas, wholeheartedly gifted their books to me. I am grateful for their love for me.

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Finally, I did the major part of the thesis work at my home due to the Covid lockdown, and I am thankful to my family, particularly my mother and my husband, for tolerating my eccentric behaviour in the process of writing the thesis.

## Transliteration Guide

| Letters | | | | |
|---|---|---|---|---|
| Arabic | Latin | | Malayalam | Latin |
| ا | | | Vowels | |
| ب | B | | അ | a |
| ت | t | | ആ | ā |
| ث | th | | ഇ | i |
| ج | j | | ഈ | ī |
| ح | ḥ | | ഉ | u |
| خ | kh | | ഊ | ū |
| د | d | | ഋ | ṛ |
| ذ | dh | | എ | |
| ر | r | | ഏ | |
| ز | z | | ഐ | |
| س | S | | ഒ | |
| ش | sh | | ഓ | |
| ص | ṣ | | ഔ | |
| ض | ḍ | | | |
| ط | ṭ | | | |
| ظ | ẓ | | | |
| ع | ‘ | | | |
| غ | gh | | | |
| ف | f | | | |
| ق | q | | | |
| ك | k | | | |
| ل | l | | | |
| م | m | | | |
| ن | n | | | |

| | | | | |
|---|---|---|---|---|
| **ه** | **h** | | | |
| **و** | **w** | | | |
| **ي** | **Y** | | | |
| **Vowels and Diphthongs** | | | | |
| ◌َ | **a** | | | |
| ◌ُ | **u** | | | |
| ◌ِ | **i** | | | |
| آ | **ā** | | | |
| ◌َى | **à** | | | |
| ◌ُو | **ū** | | | |
| ◌ِى | **ī** | | | |
| ◌َوْ | **aw** | | | |
| ◌َىْ | **ay** | | | |

## Contents

# Introduction

How do Indian Muslims, situated as a minority, engage with an economic system in which interest-free banking is a punishable offence[1], when the laws governing their Muslim subjectivity are diametrically opposed it? [2] Or generally how do Muslims, while being true to their faith, engage with a social reality not constructed according to their laws? This thesis is a small endeavour to address this question by exploring interpretations of *ribā* (interest) by some of the Muslim scholars in Kerala from the late colonial period to the present (2019).

Historically, the encounter of Muslim world with the modern economic ideology by the violent imposition of colonial rule of the West, has produced varied responses among Muslims towards modernity. One such response has attempted to revive Islam to confront the challenge of Western dominance[3] and in the domain of economics, it has constructed a distinct discipline, Islamic economics, to address the economic needs of Muslims in modern society while being true to *Sharia*[4]. Emergence and flourishing of Islamic banking and finance across the world is a concrete expression of this attempt.

In principle, the functioning of Islamic finance is based on the Islamic ideals of the prohibition of *ribā* and *gharar* (literally meaning uncertainty or speculation), concentration on *ḥalāl* (Islamically permissible) activities and a pursuit for justice and other Islamic objectives[5]. The appropriation of

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[1] According to the Banking Regulation Act, 1949, interest is a significant component in banking in India. Also banks are prohibited to engage in risk financing.

[2] I do recognise that this question presupposes interest as antithetical to Muslim subjectivity, thereby excluding Muslims who are compatible with interest. The word 'Muslim subjectivity' in this thesis represents only that strand of Muslim subjectivity which recognises a conflict between interest and *Sharia.* My choice of prioritising this strand of Muslim subjectivity stems, firstly, from the curiosity to explore possible alternatives, if exist, of the economic ideology of modernity and secondly, marginality of the belief, i.e., interest is sin, in the dominant economic ideology of the present.

[3] Islamic revivalism is only one among many responses of Muslims towards colonialism. Due to multiple constrains the thesis is not exploring other responses.

[4] See, Abū'l A'lā Maudūdī, *The Economic Problem of Man and its Islamic Solution* (New Delhi: Markazi Maktaba Islami Publishers, 2013); Muḥammad Umer Chapra, *Towards a Just Monetary System* (Leicester: The Islamic Foundation, 1985); Muhammad Nejatullah Siddiqi, *Muslim Economic Thinking a Survey of Contemporary Literature* (Leicester: The Islamic Foundation, 1981).

[5] Ibrahim Warde, *Islamic Finance in the Global Economy* (Edinburgh: Edinburgh University Press, 2000), 5.

Islamic legal terminology into Islamic finance has provided financial instruments in consonance with the beliefs and ethical considerations of modern Muslims. The terms loaned from Islamic jurisprudence, diverging from meanings attached to them for more than thirteen centuries, have acquired new meanings in Islamic finance[6]. A study on the accounting practices of Islamic banking has revealed that, regardless of the difference in terminologies, the rationale of accounting in Islamic finance is identical with conventional banking[7]. Islamic finance may have reconfigured capitalist practices in some domains, nonetheless it could neither disrupt the underlying assumptions undergirding capitalist expansion nor provide a concrete alternative to the economic relations of conventional finance[8]. Quite the opposite of being an irreconcilable other, Islamic finance only adds an 'ethical and social dimension' to the conventional banking system[9].

Along with the critique of Islamic finance, the validity of the categories constructed to establish the discipline like Homo-Islamicus[10] have been questioned by some scholars. According to Warde, the contradiction between Homo Islamicus and Homo Economicus is pointless as neither category is representing reality[11]. Similarly, Ismail, founding upon her ethnographic study on the consumer markets of Cairo, has argued that the contradictions arising from structural changes in Egyptian economy due to its integration with global commercial system cannot be comprehended with the analytical categories of Islamic economics[12]. In contrast to this, Rudnyckyj has argued that an analytical distinction between the categories of Homo Economicus and Homo Islamicus is useful for considering the issues of globalising economic rationality and there are constraints in the

[6] Charles Tripp, *Islam and the Moral Economy: The Challenge of Capitalism* (New York: Cambridge University Press, 2006), 194.

[7] Bill Maurer, "Anthropological and Accounting Knowledge in Islamic Banking and Finance: Rethinking Critical Accounts," *The Journal of the Royal Anthropological Institute* 8, no. 4 (2002): 657.

[8] Mahmoud A. El-Gamal, *Islamic Finance Law, Economic, and Practice* (New York: Cambridge University Press, 2006), 183; Timur Kuran, *Islam and Mammon: The Economic Predicaments of Islamism* (New Jersey: Princeton University Press, 2004), 52-54; Tripp, *Islam and the Moral Economy,* 196.

[9] Warde, *Islamic Finance,* 46.

[10] Homo Islamicus is a term used by Islamic economists to denote the qualitative difference in the behaviour of Muslims compared to the behaviour of 'homo economicus' envisioned in classical economics.

[11] Ibid, 44-47.

[12] Salwa Ismail, "Piety, Profit and the Market in Cairo: A Political Economy of Islamisation," *Contemporary Islam* 7, no. 1 (2013):128-129.

economic actions in Islamic finance compared to conventional finance. Also, the categories are not descriptions of reality, rather a matrix of ‘institutions, technologies, and apparatuses’ have to be developed to establish these categories into being[13]. Recognition of constrains in Islamic finance to provide a radical alternative to conventional finance has produced divergent response towards it in academia. While some have endorsed Islamic finance for the expansion of capitalism and democracy, others have attempted to restructure Islamic finance to make it a viable alternative to conventional finance[14].

The authenticity of Islamic finance is not the main concern for Indian Muslims since they do not have a choice of Islamic banking. Rather what preoccupies them is how to navigate economic relations in the existing Indian economic system without hindering their beliefs. One major area of conflict between the Muslim identity and Indian economic system is on the issue of Islamic prohibition of *ribā.* Renunciation of *ribā* is a key aspect of Islamic imagination of a moral economy and it is one of the most difficult subjects for many Islamic scholars. Throughout the history of Islam, Muslim scholars have differed on the interpretation of *ribā* and presently the differences have escalated with the growth of intricacies in economic system. By exploring Islamic scholars' interpretation of *ribā* in Kerala, the thesis aims to unravel the complexities of minority Muslim subjectivity in modern economic system. I would like to clarify that, the thesis neither intends to find out the most correct interpretation of *ribā* nor does the thesis prioritise one interpretation over the other. Hence the thesis does not consider any interpretation as an essential aspect of Islam,

[13] Daromir Rudnyckyj, “Homo Economicus and Homo Islamicus, Revisited: Islamic Finance and the Limits of Economic Reason,” (paper presented at International Conference on Islamic Economics and Finance, Doha, December 20, 2011), 1-2. Rudnyckyj’s recognition of the categories in Islamic finance doesn’t mean that he ignored the influence of conventional finance on Islamic finance. In his ethnographic study on Islamic finance in Kuala Lumpur, Rudnyckyj argued that Islamic finance is not antithetical to economic rationality, rather the market calculations embedded in conventional finance functions an inevitable benchmark for comparison and differentiation. Daromir Rudnyckyj, “Economy in practice: Islamic finance and the problem of market reason,” *American Ethnologist* 41, no. 1 (2014):110-127.

[14] See Clement M. Henry & Rodney Wilson, eds., *The Politics of Islamic Finance* (Edinburg: Edinburg University Press, 2004); Mohd Mahyudi, “Rethinking the Concept of Economic Man and its Relevance to the Future of Islamic Economics,” *Intellectual Discourse* 24, no.1 (2016): 11-132; Zubair Hasan, “The Evolution of Islamic Economics: A Critical Analysis,” *International Journal of Islamic Finance* 8, no. 2 (2016): 9-25; Necati Aydin, “Islamic Economics: “New Paradigm” or “Old Capitalism”?,” in *Islamic Finance, Risk-Sharing and Macroeconomic Stability ,* ed. Muhammed Zulkhibri & Turkhan Ali Abdul Manap (Cham: Palgrave Macmillan, 2019).

rather it perceives every interpretation as part of a continuously evolving discursive tradition of Islam[15].

Similar to the theme of this research, Ananya Dasgupta's article, 'Debt and Muslim self-making in late-colonial Bengal', has explored debates among Bengali-Muslims on *ribā* proscription in the context of massive indebtedness in the early twentieth century colonial Bengal. She observes a difference in *ribā* narratives of Muslim peasantry and urban based Muslim rationalists and reformers. While the rationalists and reformers substantiated increase in the value of money with the linear progression of time and demanded repealing or reinterpreting *ribā* prohibition for the economic prosperity of Muslim community, the texts popular among peasantry perceived the value as being generated by labour and their indebtedness as caused by faulty religious practices and deviation from the *ribā* prohibition. Through the analysis of these texts, Dasgupta argues that the rejection by the Muslim peasantry to pay off interest has to be understood through varied possibilities of understanding interest offered by the discursive practices of texts circulating among the Muslim peasantry in late colonial Bengal[16]. While Dasgupta's study explores the debates surrounding the *ribā* discourse in the context of indebtedness suffered by Muslim peasantry in late colonial Bengal, this thesis intends to explore *ribā* discourse from early twentieth century to the present among the Muslim scholars of Kerala. Secondly, the discourse on *ribā* in this thesis is not confined to any particular context unlike Dasgupta's work, which was centred on context of indebtedness. This doesn't mean that the thesis is overlooking the context while analysing the interpretations, rather it probes into various historical conditions which influenced the narratives of *ribā.*

To understand the theological contestations among Muslim scholars on *ribā,* it is necessary to locate this contestation within the larger discourse of *ribā.* Though the theological discourse of *ribā* is limited to the Islamic tradition, this discourse has been influenced by other traditions, particularly the Jewish and Christian traditions. The Aristotelian thought has also had seminal

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[15] Every Muslim scholar's interpretation on *ribā* in this thesis is based on an essentialist understanding of Islam. Therefore, in certain parts of the thesis, particularly in chapter 3, I have analysed their interpretation in accordance with the frame used by them.

[16] Ananya Dasgupta, "Debt and Muslim self-making in late-colonial Bengal," *South Asian History and Culture* 7, no. 2 (2016):186.

influence on the Islamic and Christian traditions. Therefore, the first chapter tracks the long trajectory of the discourse of interest in all these traditions. Meaning attached to the word 'interest' changes across cultures. In this thesis, the word interest means the excess money charged on principal by the lender on the lendee in a debt transaction. In some cases interest, usury, and *ribā* are used interchangeably. Similarly, the words like wealth and property, finance and commerce are used interchangeably.

Since it is not feasible to incorporate every Kerala Muslim scholar's interpretation of *ribā*, the thesis will examine the scholars from four major Islamic Organisations from Kerala, i.e., Kerala Nadvathul Mujahideen (KNM) official faction, Samastha Kerala Jam'eyyat ul-Ulama (SKJU) E K faction, SKJU A P faction, and Jamaat-e-Islami Hind (JIH), Kerala. Choosing these four organisations is based on two reasons, firstly, their relative significance among the Muslims of Kerala, and secondly, relative ease of accessing the works of scholars belonging to these organisations. Within these organisations, only the works of prominent scholars have been selected.

All these works are written in the script of Malayalam and Arabi-Malayalam and all translations from these works are done by the researcher of this thesis. Works from the late colonial period in Kerala were written in the script of Arabi-Malayalam. In spite of being a Mappila Muslim born and brought up in Malabar, I could not understand the meaning of many words used in these texts. It is because of the change in the language from the late colonial period to the present. Muslim scholars in my acquaintance helped to translate the meanings of old Arabi-Malayalam words. These texts also contained many words from Arabic language. Some portions of the texts were entirely in Arabic. I relied on al-Manhal Arabic-Malayalam dictionary to know the meanings of Arabic words.

Despite being a non-Keralite, Abū'l A'lā Maudūdī[17] has been included for the study. This is due to the influence of his writing on scholars of JIH, Kerala. The scholars' interpretation of *ribā* does not necessarily represent their organisation's view. Nonetheless, an organisation's method of interpreting primary texts of Islam has some influence on the scholars' approach towards *ribā.* Therefore, understanding the history and the ideology of these organisations is necessary to

[17] Maudūdī hailed from the princely state of Hyderabad and post-partition he relocated into Pakistan.

analyse the scholars' interpretation of *ribā.* Hence the second chapter explores the emergence of these organisations in Kerala. The third chapter consists of the Islamic scholars' interpretation of *ribā* in Kerala. The Malayalam and Arabi-Malayalam texts used the word '*Paliśa'* to denote both interest and *ribā* though the literary definition of the term does not necessarily mean either interest or *ribā*. The thesis has translated the word '*Paliśa'* as both interest and *ribā* in accordance with the context.

Chapter 1

# Concise Conceptual and Jurisprudential History of *Ribā*

What constitutes *ribā* has been a debate from the early years of Islam[18] onwards and the deepening of modern finance capitalism has escalated it in contemporary times. The available evidence of the discourse on *ribā* dates back to the written history of humanity itself[19]. It is necessary to understand this long discourse of *ribā* to make sense of the current conflicting views on it among the Muslim intelligentsia. The chapter is not attempting to understand the genealogy of *ribā*, rather it is a limited endeavour to unravel varied interpretations of *ribā.* As part of this the chapter also probes into the Jewish, Greek and Christian ideas of interest since all these discourses have influenced the Islamic discourse on *ribā*. The research is confined to the dominant juridical and conceptual aspects of *ribā.* This does not mean that the other aspects are less relevant to the understanding of *ribā*. Since the problem of the thesis primarily emanated from the modern discourse of *ribā* and that is sourced primarily from juridical aspects, the thesis focuses on that.

## Jewish Conception of Interest[20]

> "…Who eats upon the mountains, defiles his neighbor's wife, oppress the poor and needy, commits robbery, does not restore that pledge, lifts up his eyes to the idols, commits abomination**, takes advance or accrued interest;** shall he live? He shall not. He has done all these abominable things; he shall surely die; his blood shall be upon himself (Ezekiel 18:11-13)."[21] [Emphasis added]

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[18] It was narrated by *Umar ibn Khattab* that "the last thing to be revealed was the verse on ribā but the messenger of Allah (ﷺ) died before he had explained it to us. So give up usury (interest) and doubtful things" Ibn Majah, *Sunan Ibn Mājah, Kitab al-Taja'ra't,* Book 12, Ḥadīth 140.

[19] Earliest recorded historical evidence of the practice dates back to 1800 B.C.E in Hammurabi's legal codes. Sidney Homer, Richard Sylla, *A History of Interest Rates* (New Jersey: John Wiley & Sons, 2005), 3.

[20] In modern financial parlance, the word interest is used as euphemism for usury. But this thesis considers both words as synonymous.

[21] Zaine Ridling, eds., *The Bible: New Revised Standard Version* (1989) pp.1681.

Modern economic discourse has whitewashed the long historical trajectory of the idea of interest deeply embedded within the religious[22] tradition as sin. Earliest injunction on this in Jewish discourse can be seen in Exodus:

> "If you lend money to my people, to poor among you, you shall not deal with them as a creditor; you shall not exact interest from them. If you take your neighbor's cloak in pawn, you shall restore it before the sun goes down (Exodus 22: 25-26)."[23]

Dating back to 9th century BCE or earlier[24], this edict in Exodus manifestly prohibits interest on loans to the needy. However there are two words in Hebrew to denote interest: *neshak* (means 'to bite') and *tarbit*[25] (means, increase) and the word used in this statement is '*neshek'*. Though both words are used synonymously, according to Meislin and Cohen, *neshek* implies 'a discount taken initially from the sum lent' and *tarbit* means 'a premium paid above the amount of the loan, when loan is repaid'[26]. Therefore, according to Gordon, subsequent legislation was required for clarification[27]. Later generations might have ambiguity on the meaning of the edict, but the society to which it was revealed may have had a clear idea of the meaning of *neshek*.

The sayings in the Book of Proverbs[28] clearly remind the borrowers of the consequences of interest: *"*The rich rule over the poor, and the borrower is the slave of the lender*"* (Proverbs 22: 7)[29], "Do not be one of those who give pledges, who become surety for debts. If you have nothing

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[22] Here religion does not indicate the private spiritual affairs of an individual, rather it works as a larger paradigm through which the people experience and make sense of themselves and the reality they are situated in.

[23] Ibid, pp. 168

[24] Gordon identifies the date based on S. Greengus's *Interpreter's 'Dictionary of Bible',* V (supplementary vol.). See, Barry Gordon, "Lending at Interest: Some Jewish, Greek, and Christian approaches, 800 BC- AD 100,*" History of Political Economy* 14, no.3 (1982): 407.

[25] This word is semantically related to the word 'ribā' in Arabic.

[26] Bernard J. Meislin & Morris L. Cohen, "Backgrounds of the Biblical Law against Usury," *Comparative studies in society and history* 6, no. 3 (1964): 260.

[27] Gordon, "Lending at Interest," 407.

[28] It is not possible to date the exact period of Book of proverbs, since the span of verses range around a millennium. Ronald E. Clements, "Proverbs," in *Eerdmans Commentary on the Bible,* ed. James D. G. Dunn and John W. Rogerson (Michigan: Wm. B. Eerdmans Publishing Co, 2003), 438.

[29] Ridling, eds. The Bible NRSV, 1270.

with which to pay, why should your bed be taken from under you?" (Proverbs 22: 26-27)[30]. The book also warns the lenders of the ephemeral character of the wealth: "One who augments wealth by exorbitant interest gathers it for another who is kind to the poor" (Proverbs 28: 8)[31]. Despite the admonitions, the practice of interest was widely prevalent among Jews. Amos (late 8th to early 7th century BCE)[32], a prophet from Tekoa, lists the practice among the major crimes of Israelites, "…for three transgressions of Israel, and for four, I will not revoke the punishment, because they sell the righteous for silver and the needy for a pair of sandals" (Amos 2:6)[33]. The aversion was not only confined to the practice, but also to the securities demanded for loan thereby making sustenance miserable (Micah 2: 8-10)[34].

The codification of Deuteronomy under the king Josiah established authoritative laws around late 7th century BCE[35]. It is believed that chapters 1 to 30 of Deuteronomy contain the sermons delivered to the Israelites by Moses. Deuteronomy sets rules and guidelines for lending practices, specifically on securities taken for loans (Deut. 24: 6, 10-11)[36]. Special significance is given on transactions with the poor, commanding the lender to be generous with them (Deut. 15: 7-8, 24: 12-13)[37]. To rectify the ramifications of defaults and to reduce the disparities, systematic debt remissions were commended in every seventh year (Deut. 15: 1-2)[38]. The outstanding passage in Deuteronomy, widely used in modern debates is:

> "You shall not charge interest on loans to another Israelite, interest on money, interest on provisions, interest on anything that is lent. On loans to a foreigner you may charge interest, but on

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[30] Ibid, 1271.

[31] Ibid, 1282.

[32] Jason Radine, *A Book of Amos in Emergent Judah* (Tübingen: Mohr Siebeck, 2010), 71, 187.

[33] Ridling, eds. The Bible NRSV, 1830.

[34] Ibid, 1862.

[35] Gordon, "Lending at Interest," 409.

[36] Ridling, eds. The Bible NRSV, 399.

[37] Ibid, 383, 399.

[38] Ibid, 382.

> loans to another Israelite you may not charge interest, so that the Lord your God may bless you in all your undertakings in the land that you are about to enter and possess. (Deut. 23: 19-20)."[39]

Various scholars have interpreted these verses in different ways. According to Benjamin Nelson, the commandment on interest constituted the foundation of the 'blood brotherhood morality of the Hebrew tribesmen'[40]. In the view of Meislin and Cohen, loan to foreigners indicated commercial investments at interest while the loan to poor was inclusive of resident foreigner[41]. In this sense, a loan to a foreigner is a business loan and a loan to an Israelite is consumption loan. Deuteronomy allows the former and forbids the latter. By analysing the context of Deuteronomy, Gerhard von Rad recognizes both the probabilities. The merchant class primarily consisted of foreigners since majority of Israelites were engaged in agriculture. Secondly the concept of blood brotherhood existed among Israelites, therefore the prohibition might have come from this consciousness[42]. Taeusch too identifies both the possibilities of traditional Jewish racial solidarity and the commercial aspect of loan to the foreigner[43]. Gordon has critiqued this tribal blood brotherhood theory, claiming that the Judaism is not exclusively a tribal religion since the concept of god, i.e., Yahweh as 'the one and only God', and the destiny of everyone depending on him, make it very universal. Secondly, interest is allowed only from non-resident foreigner (*nokrî*), not from resident foreigner (*gêr*)[44]. The other conception of deuteronomic distinction of loans into consumption and commercial loans will be historical anachronism of using modern categories to analyse premodern phenomena. The principal microeconomic institution of ancient period was household and it functioned both as production unit and as consumer. Hence there exists structural relation between 'production possibilities, consumption potential, and household capital'. Therefore the loan to poor does not necessarily mean consumption loans[45]. Gordon explains this distinction using the law of

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[39] Ibid, 398. Instead of Israelite, the word "brother" is used in other versions of Deuteronomy.

[40] Benjamin Nelson, *The idea of usury: from tribal brotherhood to universal otherhood,* (Chicago: University of Chicago Press, 1969), xix.

[41] Meislin & Cohen, "Backgrounds of the Biblical Law against Usury," 264-265.

[42] Gerhard Von Rad, *Deuteronomy: A Commentary,* trans. Dorothea Barton (Gottingen: SCM Press, 1966), 148.

[43] Carl F. Taeusch, "The Concept of "Usury": the History of an Idea," *Journal of the History of Ideas* 3, no.3 (1942): 292.

[44] Gordon, "Lending at Interest", 411.

[45] Ibid.

retaliation. Laws in land of foreigners might have allowed interest based loans. Israelites might be in adverse position if they lend interest free loans and borrow loans on interest. This reasoning is consistent with the exclusion of resident foreigners from interest[46]. Kirschenbaum too argues that Jewish law does not fundamentally distinguish between commercial loan and charitable personal loan[47]. Through an analysis of rabbinic sources, he argues that the prohibition of interest in Deuteronomy or in the rest of Torah, is primarily religious ritualistic prohibition (*ḥesed),* therefore applicable only among Israelites not to any gentiles[48]. Although there exist codes applicable exclusively for Jews and for everyone, I think a neat categorization of codes into civil and religious might be problematic in analysing this verse of Deuteronomy, especially charging interest was prohibited not only to Jews but also to resident non-Jews of Israel.

Despite the prohibitions the practice of interest (Ezekiel 22: 12)[49] and enslavement for debt insolvency (Jeremiah 34: 8-14)[50] were rampant. To reduce the stark disparity, Nehemiah (5th century BCE) enforced complete debt remission and return of securities (Nehemiah: 5: 1-13)[51]. The codes on interest prohibition and manumission in jubilee years reasserted in Leviticus (Leviticus 25: 35-43)[52]. The issue of securities demanded for sanctioning loan was also heavily critiqued: "they are those who snatch the orphan child from the breast, and take as a pledge the infant of the poor' (Job 24: 9)[53]. Code in Leviticus on interest is very specific: "do not take interest

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46 Ibid, 411-412.

47 Aaron Kirschenbaum, "Jewish and Christian Theories of Usury in the Middle Ages," *The Jewish Quarterly Review* 75, no. 3 (1985): 276.

48 Ibid, 288-289.

49 Ridling, eds. The Bible NRSV, 1691. Ezekiel has composed in between 592 to 571 BCE. John A. Goldingay, "Ezekiel," in *Eerdmans Commentary on the Bible,* ed. James D. G. Dunn and John W. Rogerson (Michigan: Wm. B. Eerdmans Publishing Co, 2003), 623.

50 Jeremiah narrates the effort to set all Hebrew slaves free and later slave owners overriding the agreement. Ridling, eds. The Bible NRSV, 1577. This incident happened between the end of 7th century BCE and the beginning of 6th century BCE. Mark E. Biddle, "Letter of Jeremiah, Baruch," in *The New Oxford Annotated Bible New Revised Standard Version with the Apocrypha,* eds. Michael D. Coogan (New York: Oxford University Press, 2007), 1073.

51 Ridling, eds. The Bible NRSV, 921.

52 Ibid, 259. But the code allows slavery of non-Israelites (Leviticus 25: 44- 46). The final text of Leviticus might have been composed between 450 to 350 BCE. F. V. Greifenhagen, *Egypt on the Pentateuch's Ideological Map Constructing Biblical Israel's Identity,* (London: Sheffield Academic Press, 2002), 212.

53 Ridling, eds. The Bible NRSV, 1006. Other verses in Job also address the issue of securities, with specific reference to donkey of orphan and ox of widow (Job 24: 2-3, 11) Ibid, 1005-6. The period of Book of Job is

in advance or otherwise make a profit from them" (Leviticus 25: 36), to avoid the loopholes in Exodus which prohibited only interest. But Leviticus allowed to extract more than one fifth of the principal if damage caused to the property lent (Leviticus 6: 2-5)[54]. Psalms (6th century BCE)[55] too prescribe the rate of interest to be zero (Psalms 15: 5)[56].

By analysing Jewish legal literature Kirschenbaum identifies some concepts that can be found in later scholastic literature on usury[57]. In a loan exchange, the ownership of money and risk associated with it will be transferred from lender to the borrower. The difference between ownership of money and the right to use it was not recognized. Secondly, money is a standard of value for rest of the products. Therefore money cannot be sold. The value of money will rise and fall. Thirdly, acceptance of wealth generation by rent and prohibition of it by interest are basic rules in Jewish legal thought. Finally, though assigning monetary value to time was accepted, interest is identified as the 'sale of time'. The 'the principle of interest is that all compensation for waiting is forbidden'[58].

The awareness of the difference between personal and business loan does not lead to its recognition among rabbis since reforming divine laws based on human understanding was repudiated. Therefore a profit and loss sharing mechanism was developed in which of the total capital, one part is given as 'loan' to debtor and the other part is kept by the creditor as 'deposit'. The debtor should also receive wages, or else his labour will be an indirect *ribbit*[59]. A trickery, *heter ʿisḳa*ʾ, was developed in which the borrower had to give an acknowledgement that wages are paid and

generally said to be between 6th to 4th centuries BCE. Katharine J. Dell, "Job," in *Eerdmans Commentary on the Bible,* ed. James D. G. Dunn and John W. Rogerson (Michigan: Wm. B. Eerdmans Publishing Co, 2003), 337.

54 Ridling, eds. The Bible NRSV, 217.

55 David M. Carr, *The Formation of Hebrew Bible A New Construction,* (New York: Oxford University Press, 2011), 342.

56 Ridling, eds. The Bible NRSV, 1055.

57 The concepts identified by Kirschenbaum are the views of majority. Contradictory views on many concepts exist within Jewish legal literature. Kirschenbaum, "Jewish and Christian Theories of Usury," 276-77.

58 This is the statement of Jewish Talmudist, Rav Nachman. Ibid.

59 The word *ribbit* is derivative of '*marbit'* or *'tarbit'* in later Hebrew. "Usury," Lewis N Dembitz & Joseph Jacobs, accessed September 10, 2020, http://www.jewishencyclopedia.com/articles/14615-usury.

agree to share the loss. In practice wages are not paid and it's hard to prove loss. The lender receives back interest as guaranteed profit[60].

## Aristotelian concept of interest

Aristotelian analysis of interest had seminal influence on the later discourse on interest[61]. Aristotle (385- 322 BCE) is critical of wealth generation as an end in itself. Affluence has to be confined to the needs of the state and the household. Acquisition of wealth is primarily for its use, procurement beyond that is an irrational activity[62]. Although Jewish thought does not perceive wealth as an end in itself, it doesn't restrict individuals to acquire wealth until it violates the norms. This logic of the perception of wealth, i.e., identifying the essential purpose of any phenomenon and deviation from it as wrong, forms the basis of Aristotelian critique on interest. This is part of the larger teleological thinking in his philosophy.

Money functions as 'single universal standard of measurement' for the transaction of distinct products, arising out of the need of mutual services which sustain a society. Therefore the existence of money is not natural, but conventional and its value depends upon the people. The value exchange needs to be equal for proper association of humans. For Aristotle money is, 'a measure that equates things, by making them commensurable; for **association would be impossible without exchange, exchange without equality, and equality without commensurability'**[63] [Emphasis added]. A usurer generates wealth by violating this nature of money, as a medium for equal exchange:

> "The most hated sort, and with the greatest reason, is usury, which makes a gain out of money itself, and not from the natural object of it. For money was intended to be used in exchange, but not to increase at interest. And this term **interest, which means the birth of money from money**, is

[60] Kirschenbaum, "Jewish and Christian Theories of Usury," 284-285.

[61] Plato's engagement with the discourse was minimal. He denies legal redressal for lender on debt recovery. Gordon, "Lending at Interest," 416.

[62] Aristotle, *Politics,* trans. Benjamin Jowett (Kitchener: Batoche Books, 1999), 14-16.

[63] Aristotle, *The Nicomachean Ethics,* trans. J. E. C. Welldone (London: Macmillan, 1923), 152-153.

> applied to the breeding of money because the offspring resembles the parent. Wherefore of the modes of getting wealth this is the most unnatural."[64] [Emphasis added].

Equality in exchange advocated by Aristotle is not necessarily meant to achieve equity in wealth distribution, rather it intends to terminate arbitrary wealth redistribution in commercial transactions[65]. Unlike other scholars on the discourse of interest, Schumpeter is very critical of crediting Aristotle as precursor of monetary interest theories. In his view, Aristotle never attempted to theorize interest based on empirical reality. Aristotle could not classify the difference between business and consumption loans. In Schumpeter's view, though Aristotle connected money with interest, it is not because of his analytical astuteness rather because of analytical absence[66]. I think it is historical anachronism to presume a proper distinction between business loan and consumption loan in 4th century BCE Greece. Secondly Aristotelian critique stems not just because the practice violates the purpose of money, but this violation leads to larger disruption of association in *polis.* Not only Aristotle, but many communitarian thinkers identified this potential of interest to widen disparities in society. Aristotelian analysis of interest hugely influenced later Islamic and Scholastic thinkers. Though Aristotelian contribution to the specific theory of interest in classical liberalism might be disputable, his analysis greatly shaped later discourse on interest.

## Interest in Medieval Scholastic Thought[67]

Influenced by Jewish and Aristotelian thought, scholastics developed the idea that interest is a violation of natural justice. Although both halakhists and scholastics referred to the same Old Testament, their interpretations on interest, especially on the deuteronomic legitimization of interest from gentiles, differed radically. The universalist foundation of Christian theology could not tolerate the distinction between Israelite and foreigner[68]. The ethical postulation of interest as

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[64] Aristotle, *Politics,* 17.

[65] See James Gordley in Brian M. McCall, "Unprofitable Lending: Modern Credit Regulation and the Lost Theory of Credit," *Cardozo Law Review* 30, no.2 (2008): 561.

[66] Joseph A Schumpeter, *History of Economic Analysis,* (e-Library: Taylor & Francis, 2006), 62.

[67] Skipping Roman thought does not mean that it had no contribution to the discourse of interest. Around 342 century BCE, interest was completely forbidden in Rome. See, Homer & Sylla, *A History of Interest Rates,* 45. The word interest in modern English stems from Roman law. It will be discussed in later part of this Chapter.

[68] The core of this universalism stems from crucifixion, in which Jesus was crucified not for any particular group, but for the entire humanity.

breach of natural justice led to the questioning of the imposition of injustice to foreigner[69]. In a detailed study of scholastic literature, Nelson sketches out varied interpretations of Deuteronomy by church theologians to reconcile the contradiction between ecclesiastical position and the text.

According to St. Jerome (340-420), the narrow prohibition of interest among Israelites had been extended to the entire humanity by prophets and the New Testament[70]. A group of scholastics interpreted foreigner as the evil other thereby justifying imposition of usury on them. In a detailed exegesis in *De Tobia*, St. Ambrose (340-397) links the deuteronomic distinction with war sanctioning between chosen people and tribes lived in the Promised Land. From this he defines 'brother' as, 'your sharer in nature, co-heir in grace, every people, which, first, is in the Faith, then under the Roman Law', and 'foreigners' as enemies of God's people[71]. Rabanus Maurus (784-856) classified the brother as any catholic and foreigner as heretics and sinners. Rolandus Bandinelli, who became the Pope in 1159, ruled that a parishioner can impose usury from heretics, pagans and everyone who assaults the church. In the view of Tyrannius Rufinus (340-410), usury can be imposed on Saracens and infidels if it is not feasible to overpower them by arms. Bernard of Pavia (d.1213) too legitimized imposition of usury from Saracens. Similarly Henricus Bohic (ca. 1310-1350) also permitted Christians to exact usury from the opponents of church. Even though Huguccio (fl.1188) and Johannes Teutonicus (fl.1216) rejected this formulation, they accepted imposition of usury on enemies.

However this exegesis was contested within the Catholic Church. According to Glossa ordinaria, a collection of biblical commentaries written in 12th century, deuteronomic approval of usury implies *'spiritual usury'* sanctioned in the parable of the talents (Mathew 25: 14-30)[72]. Peter Lombard[73] (ca. 1096- 1160) expounds another interpretation by correlating usury with theft. Theft,

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[69] Kirschenbaum, "Jewish and Christian Theories of Usury," 286.

[70] To exemplify this position, he sites David and Ezekiel which do not use the deuteronomic distinction. Nelson, *The idea of usury,* 3.

[71] Ibid, 4.

[72] In parable of the talents, a master entrusts his property to three servants before leaving. The first two servants increase the wealth, while the third keeps it as it is. The parable ends by master rebuking and banishing the third slave for not even increasing the wealth by depositing it with bankers. Ridling, eds. The Bible NRSV, 61-62. The parable indicates that the practice of increasing wealth through interest was very common.

[73] Anselm of Canterbury and Ivo of Chartres were the first to associate usury with theft. Kirschenbaum, "Jewish and Christian Theories of Usury," 272.

i.e., ‘illicit usurpation of another’s thing’[74] is directly proscribed by Mosaic commandment, with the exception of Jewish plundering of Egyptians (Exodus 3: 22)[75]. Similarly deuteronomic legitimization is an exception to the general prohibition of usury.

Another major explanation for deuteronomic authorization is that usury from a foreigner is allowed to prevent the greater evil. Analogizing with the bill of divorcement, Peter Comestor (ca. 1100-1178) propounds that God had sanctioned it because he scared that if not, the Jews will exact usury from their own brothers. Taking a similar position, William Auxerre (ca. 1145- 1231) argues that usury is greater sin than homicide since killing is admirable sometimes. He is critical of evaluating Jewish plundering as an exception, since Jews were only seizing the long due for their slave labour. Alexander of Hales (ca. 1185- 1245) too takes a similar position. He denounces the Ambrosian logic by questioning how people can have right to property if they do not have right to life, therefore extracting wealth from those who have no right to life is not usury.  In similar line Albertus Magnus (ca. 1196- 1280) reproached the interpretation of exceptional sanctioning of evil, since every form of evil must be abandoned. Jews were not encroaching the land of Canaanites, rather redeeming their own land. Thomas Aquinas (1225- 1247) also defended this position by stating that deuteronomic permission stems from the fear of avarice which Jews are prone to.

Peter Cantor’s (d. 1197) account on deuteronomic exemption in his work *Verbum abbreviatum* exposes the vicious connection between rulers and usurers. To get away from trials, Christian usurers disguise as Jews and monarchs won’t penalize them. Cantor reinterpreted the verse within the larger frame of promise given to Jews in Deuteronomy as, ‘thou shall not lend to thy brother in Holy Land; but there thou shalt enjoy such abundance that thou wilt lend at usury to the alien, that is, alien will ask thee to lend them’[76]. Robert de Curzon (d. 1219), disciple of Cantor, proposed that deuteronomic prohibition has to be comprehended by considering Exodus 22: 21 and Leviticus 25: 35-37[77], both protected the foreigners. Since Christians are not foreigners but strangers to Jews, it’s not allowed for Jews to impose usury on Christians. Similar to bill of divorcement, usury is sin

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[74] Nelson, *The idea of usury*, 9.

[75] Ridling, eds. The Bible NRSV, 132.

[76] Nelson, *The idea of usury*, 12.

[77] Verse in Exodus commands not to oppress resident aliens while the Leviticus verse prohibits charging interest from them. Ridling, eds. *The Bible NRSV*, 168,259.

against God, therefore there is no civil law to punish usurers. According to Celsus, usury per se was never permitted to Jews, rather it was a substitutive practice of repossessing their own goods, and that permission was terminated similar to the bill of divorcement[78]. The interpretations of scholastics on Deuteronomy raged from the exceptional permission of an evil to zero tolerance of usury. This complete prohibition of usury was further supported by the verse in Luke in New Testament:

> "But love your enemies, do good, and **lend, expecting nothing in return**. Your reward will be great, and you will be children of the Most High; for he is kind to the ungrateful and the wicked. (Luke 6: 35)."[79] [Emphasis added]

This verse has been interpreted by scholastics to mean that all credits must be free of interest. Consequently the third council of the Lateran conducted by Pope Alexander III in 1179, proclaimed the denunciation of usury based on both testaments[80]. Recent scholarship has questioned this interpretation arguing that preceding verses in Luke are not in tune with this meaning and the corresponding verse in the Sermon on the Mount in Matthew[81] does not resemble with the verse in Luke. In their view Matthew is more authentic than Luke due to his proximity to Hebraic tradition[82]. Whatever Jesus of Nazareth said in the Sermon on the Mount, Roman Catholic Church's interpretation of it as an absolute proscription of interest had crucial ramifications in the later discourse on interest.

The general attitude of intense aversion towards usurers is embodied in the words of St. Gregory of Nyssa (ca. 335-395), who called usurers as 'brood of vipers' and forewarned the poor of the

[78] Nelson, *The idea of usury*,3-20.

[79] Ridling, eds. *The Bible NRSV*, 136.

[80] Usury was completely prohibited in second Lateran council itself in 1139. John Thomas Noonan, *The Scholastic Analysis of Usury* (Massachusetts: Harvard University Press, 1957), 19.

[81] "You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you, Do not resist an evildoer. But if anyone strikes you on the right cheek, turn the other also; and if anyone wants to sue you and take your coat, give your cloak as well; and if anyone forces you to go one mile, go also the second mile. Give to everyone who begs from you, and do not refuse anyone who wants to borrow from you" (Matthew 5: 38-42) Ridling, eds. *The Bible NRSV*, 19.

[82] Gordon, "Lending at Interest," 420-21.

'poisonous serpents' chasing the destitute[83]. St. Augustine of Hippo (354-430) also asserted the complete prohibition of usury. Equating the needs of poor as the needs of Christ himself, St. Augustine instructed usurers to discover new vocation[84]. Some other church fathers critiqued usury for its rapid unnatural growth[85]. The *Decretum* of Gratian, compiled in 12th century, also denounced usury in its totality[86].

Apart from religious denunciations, the scholastics developed philosophical critique of usury by analysing the nature of money. Influenced by Aristotelian thought, William Auxerre was the first to proclaim usury as violation of natural law[87]. The seminal contribution to this analysis was produced by Saint Thomas Aquinas. Following Aristotelian conception of money primarily as a measure of value for exchange of other objects and without any intrinsic value of itself (barrenness of money), Aquinas argues that, "To take usury for money lent is unjust in itself, because this is to **sell what does not exist, and this evidently leads to inequality which is contrary to justice**" [88] [Emphasis added]. In lending consumable products which do not have distinction between the use and the existence of the product like wine or wheat, the ownership is transferred from creditor to the debtor. Therefore charging for the use of product separate from product itself is charging for thing that does not exist, thus constitutes injustice. But in non-consumable objects like house, the use won't perish the object itself, hence the ownership can be retained with the lender while he or she can charge for its use as rent[89]. Regarding money, in Aristotelian line, Aquinas propounds that it is:

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[83] Brenda Llewellyn Ihssen, "Basil and Gregory's Sermons on Usury: Credit Where Credit is Due," *Journal of Early Christian Studies* 16, no. 3 (2008): 413. The serpent symbolizes evil in Christian mythology right from the fall of man from paradise. By this linking of usurers with serpents, St. Gregory epitomizes the evilness of usurers.

[84] Robert P. Maloney, "The Teaching of the Fathers on Usury: An Historical Study on the Development of Christian Thinking," *Vigiliae Christianae* 16, no. 4 (1973), 260.

[85] The growth of money is compared with the growth of young vipers, whose parents will perish in their voracious scrambling for life. William Cunningham, *Christian Opinion on Usury with Special Reference to England* (Edinburg: MacMillan & Co., 1884), 18.

[86] Taeusch, "The Concept of "Usury", 299.

[87] Kirschenbaum, "Jewish and Christian Theories of Usury," 272.

[88] St. Thomas Aquinas, *The "Summa Theologica" Second Part (QQ. XLVII.- LXXIX)*, trans. Fathers of English Dominican Province (London: R. & T. Washbourne Ltd., 1918) 330.

[89] Ibid, 331.

> "…invented chiefly for the purpose of exchange: and consequently the proper and principal use of money is its consumption or alienation whereby it is sunk in exchange. Hence it is by its very nature unlawful to take payment for the use of money lent, which payment is known as usury…"[90]

This act of unequal exchange in usury is transgression of commutative justice thus sin[91]. Concomitantly, since money is a means for sale it cannot be an object of sale and the act of usury is an unnatural reproduction of money from money, therefore against the law of nature[92]. Aquinas permitted restitution for an 'actual loss' (*damnum emergens*) of money of the lender while denied compensation for 'outgoing profit' (*lucrum cessans*)[93]. Also, the lender cannot extract more than the principal from the borrower since the ownership of money and consequently the risk associated with it has been transferred to the borrower. If creditor carries the ownership and risk of money in a transaction like with a merchant or an artisan, then he can extract part of profit from the debtor[94]. Though Aquinas declared usurers as sinners, he exempted borrowers from sin[95]. The analysis of Aquinas is a breakthrough in the discourse of interest and classical economists' justification of interest relied heavily on reformulation of Thomistic thought.

Another significant innovation of scholastics is relating usury as an unnatural sale of time. William Auxerre, who pioneered this thought, proclaims that;

> "He [the usurer] also acts against the universal natural law, because he sells time, which is common to all creatures. Augustine says…each creature is compelled to give himself; the sun is compelled to give itself to illuminate…Nothing, however, so naturally gives itself as time: willy-nilly things have time. Because, therefore, **the usurer sells what necessarily belongs to all creatures generally he injures all creatures**…Whence especially against them God says, "When I shall take

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[90] Ibid.

[91] Joan Lockwood O'Donovan, "The Theological Economics of Medieval Usury Theory," *Studies in Christian Ethics* 14, no. 1 (2001), 55-56.

[92] Noonan, *The Scholastic Analysis of Usury*, 46-47.

[93] Aquinas, *Summa Theologica*, 335. See also, Ayman Reda, *Prophecy, Piety, and Profits: A Conceptual and Comparative History of Islamic Economic Thought* (New York: Palgrave MacMillan, 2018), 231.

[94] Aquinas, *Summa Theologica*, 336-337.

[95] Aquinas justifies this position arguing that 'it is by no means lawful to induce a man to lend under a condition of usury: yet it is lawful to borrow for usury from a man who is ready to do so and is a usurer by profession; provided the borrower have good end in view, such as relief of his own or another's need'. Ibid, 340. See also, Edmund Whittaker, *A History of Economic Ideas* (New York: Logmans, Green & Co., 1940), 520-21.

> up the time, that is, when time will be so in My hand that a usurer cannot sell it, then I will judge justly." [96] [Emphasis added]

The principal lent may incur both profit and loss, but in usurious transactions the creditor presumes the certainty of return beyond principal regardless of gain or loss in the enterprise. This requirement of certainty of payments constituted 'the sale of time itself'[97]. The scholastic innovations on the idea of interest shaped later contestations on interest.

This general conception on interest is reflected in the proclamations and orders of Catholic Church. The canon 17 of first Ecumenical Council in Nicaea in 325 prohibited usury among the ecclesiastics with the retribution of removing from clergy rank[98]. Subsequent Second (1139), Third (1179) and Fourth (1215) Lateran Councils declared denunciation of usury, excommunication and denial of interment of manifest usurers and directed annual confessions respectively[99]. The Decretals (1234) issued by Pope Gregory IX intensified the provisions against usury. By classifying usurers as *infames,* they were barred from holding public offices and honours, giving evidences in court and annulled their wills and testaments. The Decretals also ordered the rulers to banish usurers from their kingdoms and prohibited landlords to rent property to usurers[100]. In the Council of Vienne (1311) Pope Clement V classified anyone who justified usury as heretic and nullified all laws that favour usury[101]. This absolute proscription of usury shifted towards moderate tolerance in succeeding centuries.

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[96] William of Auxerre, III: 21, f.225v:a. Quoted from, Noonan, *The Scholastic Analysis of Usury,* 43-44.

[97] Taeusch, "The Concept of "Usury", 298.

[98] Charles Joseph Hefele, *A History of Christian Councils, From the Original Documents to the Close of the Council of Nicaea,* trans. William R. Clark (Edinburg: T & T Clark, 1869), 424-426. Prior to this, 20th canon in Synod of Elvira (ca. 305- 306) and 12th canon of Synod of Arles (314) also proclaimed against interest. Ibid, 145, 190-191.

[99] Jacques Le Goff, "The Usurer and Purgatory," in *The Dawn of Modern Banking,* ed. Center for Medieval and Renaissance Studies (New Haven: Yale University Press, 1979), 28-29.

[100] The Decretals also contain provisions of restitution for usurers. James A Brundage, "Usury," in *Dictionary of the Middle Ages Volume 12*, ed. Joseph R. Strayer (New York: Charles Scribner's Sons, 1989), 336.

[101] Arthur Vermeersch, "Usury," in *The Catholic Encyclopedia Volume15,* ed. Charles G. Herbermann et al. (New York: The Encyclopedia Press Inc., 1913), 236.

## Later Christian Reinterpretations of Interest

The long existing consensus on the detestation towards interest witnessed retract with the advent of reformation within western Christianity. Much before that, criticism arose within Catholic Church itself. John Duns Scotus (ca. 1266- 1308) questioned the Thomistic repudiation of use value of money though he was is consonance with the complete proscription of usury[102]. Similarly Joannes Andreae (1270- 1348)[103] questioned some scholastic theories against interest. Andreae contradicts with his assertion of interest as inherently immoral by claiming the reasons for essential immorality is invalid. Likewise he diverges from his initial recognition that the ownership of money will pass from creditor to the debtor[104]. He also challenges the Aristotelian critique of interest as unnatural growth by pointing out the existence of interest in natural products like wheat and its nonexistence in artificial products like rent of house[105]. It seems that Andrea understood the Aristotelian critique in literal sense. The value of both wheat and house are being assessed using money, the common medium of exchange. Since, according to Aristotle, value of money depends on social convention, the increase of it through interest is an artificial growth[106]. Adreae also repudiated scholastic admonition of interest as sale of time since the same can be observed in many legitimate transactions like rent[107]. Nonetheless Adreae put forth his own critique of interest[108] based on the nature of objects. Objects that can be calculated in number, weight or

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[102] Scotus' censure of usury mainly relied on the barrenness of money and interest as unjust extraction of the labour of borrower and sale of time. The credit sales were also admonished due to the possibility of interest in such transactions. Noonan, *The Scholastic Analysis of Usury*, 60- 61.

[103] Andreae was a lay canonist than a systematic theologian and this might have influenced his analysis of interest. Ibid, 65.

[104] The critique against the transfer of ownership argument was that though ownership in 'substance' passes to the debtor since it is not binding to return the same money, the creditor still retains ownership in the form of equality of value and is therefore entitled to demand profit generated out of that money. Andreae initially defends the scholastic position by defining what is held by the creditor is not the ownership of money but the right over it till the agreed period. Therefore debtor owns the risk and creditor is not entitled to profit from that money. Later he denies the transfer of ownership to debtor. Ibid, 65-66.

[105] Ibid, 66.

[106] This critique might be erroneous since my understanding of Andreae's thoughts on interest is from secondary source.

[107] According to scholastics rent is charged not as sale of time, rather for the use of non-consumable objects unlike money which is consumable.

[108] This critique was first introduced by Giles of Lessiness though Andreae made it explicit. Ibid, 66.

measure possess an 'intrinsic value' based on definite quantity. Inequality in the transaction of such objects is unnatural and unjust. Therefore interest in money transactions is unjust since money can be quantified while rent is legitimate since the rented object does not have definite value[109].

The most radical departure from scholastic critique of interest came from German theologian Conrad Summenhart[110] (c. 1450- 1502). Initially he negates the Thomistic contention of the inseparability of use and substance of money by pointing that the use of a product is always preceded by its ownership and the possession of an object is not confined to the right to use it. However the inclusion of this subtlety did not invalidate the Thomistic critique since both ownership and right to use are transferred to the borrower, rather it questioned only the categorical indivisibility of use and ownership of an object[111]. But the lender demands usury for the use of money. In the opinion of early scholastics, with repayment the borrower reinstates the 'power of using' whatever product or money is being lent. But for Summenhart the borrower can never return the use in the borrowed period since it irreversibly falls back into the past[112]. This view completely rejects Thomistic argument by granting distinct values to use and substance of consumable products, thereby denying scholastic assertion of interest as double sale and sale of time. Summenhart acknowledges the inseparability of substance and its use but this does not invalidate the existence of separate values for both substance and use. He illustrates this through the example of a chalk in which the whiteness of chalk is inseparable from the chalk itself, but the value of the chalk is constituted by its substance and its whiteness[113]. I think what Summenhart misses here is that unlike the 'tableness' of a table or any other durable object, the whiteness of chalk extinguishes in every use of the chalk, therefore constitutes single value. Another indirect justification of interest came from the refutation of Andrean concept of fixed value. In the view of Summenhart

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[109] Ibid, 66-67.

[110] This does not mean that Summenhart validated usury, indeed he provides twenty three natural law reasons against usury. But he does not refute some objections he raised against usury prohibition. Ibid, 340.

[111] Although theoretically distinguishable, the use and ownership constitute as one value in loan.

[112] Summenhart states, "But he does not restore to him [the lender] the use of the intervening time, so that he will be able to use it [the money] for the intervening time, because that passes irrevocably into the past. And so, granted even that the usurer demands principal itself for the loaned good, and profit for the use for the good, yet the equivalent principal is not restored at the time the loan is made, but only after a time. Therefore, it is not equivalent to the good loaned and the use in the intervening time." Ibid, 341.

[113] Ibid, 342.

the value of an object varies in different circumstances according to its use which is in turn being decided by human judgement. Weight, measure or number of an object determine only its quantity not the value. Applying this logic to money eventually leads to market in loans[114]. Furthermore he rejects the idea that interest is an artificial gain from sterile money. Comparing with rent, he argues that money is useful and aids the profit of debtor. Similarly Summenhart negates the early scholastic claim that unlike borrower the usurer earns without any risk. To him the lendee can obtain more profit from investment than the lender and the lender always runs the risk of lendee's insolvency. He also critiques the Aristotelian concept that interest violates the purpose of money, arguing that any object, including money, can be used for multiple purposes[115]. Nevertheless Summenhart upholds the proscription of interest based on divine law. Construction of a 'divine' realm separate from nature enabled Summenhart to critique the early scholastic refutation of interest as violation of natural justice.

In Protestant circle, conservative reformers like Martin Luther (1483- 1546), Philip Melanchthon (1497- 1560), Ulrich Zwingli (1484- 1531), Martin Bucer (1491- 1551), John Calvin (1509- 1564), Henry Bullinger (1504- 1575), Pierre Viret (1511- 1571) et al. upheld softened position towards interest contributing to its normalization in Christianity. The attitude of Luther altered from firm censure of interest towards moderate toleration. He defines usury as an unequal transaction in which the lender receives back more than the principal being lent[116]. The practice of usury violates Christian love and natural law[117]. In his address to Christian nobility of German nation, Luther deplores usury as the cause of misery faced by Germans and warns the destruction of Germany if it continued unbridled[118]. Luther was keen to identify financial transactions implicitly involving

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[114] Ibid, 342-343.

[115] Ibid, 343.

[116] In *'A Treatise on Usury'* (1520) Luther enunciates, "he who makes a charge for lending is not lending and neither selling; it must therefore be usury, because lending is, in its very nature, nothing else than to offer another something without charge, on the condition that one get back, after a while, the same thing, or its equivalent, and nothing more." Martin Luther, *Works of Martin Luther Volume IV*, tr. C. M Jacobs et al. (Pennsylvania: A J Holman Company & The Castle Press, 1931), 52. Luther reasserts this idea in *'On Trading and Usury'* (1524). Ibid, 22.

[117] Ibid, 67.

[118] Martin Luther, *Luther's Primary Works Together with His Shorter and Larger Catechisms*, ed. Henry Wace and Karl Adolf Buchheim (London: Hodder and Stoughton, 1896), 240-41.

usury[119] and he denounced the practice of receiving fixed return from investment because the return of investor is independent of risk involved in the business[120]. In Preface to an Ordinance of a Common Chest (1523), he criticizes the Catholic Church for usury based possessions normalized by the term interest:

> "…part of the possession of monasteries and foundations, and a great part of the prebends are based upon **usury, which now calls itself everywhere "interest,"**…interest bearing foundations, however, may rightly be regarded as usury; for I have never yet seen or heard of a right annuity that bears interest."[121] [Emphasis added]

This initial absolute abandonment of usury is reversed in the next session of '*A Treatise on Usury'* itself, in which he tolerates up to 6% of interest[122]. Concerning the deuteronomic approval of charging interest from gentiles, diverging from scholastic universalistic interpretations, Luther justifies the discriminations as God's laws are beyond human discretion and absolute equality is not desirable for social peace[123]. But the crucial reformist position of Luther paved way for normalization of interest was subjugation of gospel law to civil authority. In peasant revolts (1524-25)[124], the interest ridden farmers along with radical protestant reformers[125] like Dr. Jakob Strausss (ca. 1480- 1533), Thomas Müntzer (ca. 1489- 1525), Andreas Karlstadt (1486- 1541) et al. strived

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[119] Luther, *Works IV,* 67-68.

[120] Ibid, 59-62.

[121] Ibid, 96-97.

[122] The permission is limited to atypical situations in which lending is not feasible since both seller and buyer are in need of the property. Ibid, 65.

[123] Categorically rejecting peasants' claims of equality among all Christians and equal rights over property since God created everything 'free and common', Luther asserted the subjection of everyone to the sovereign and civil law. Nelson, *The idea of usury,* 53-54.

[124] The German aristocracy crushed the revolts and nearly one to three lakh farmers killed in it. For more details, see, Peter Blickle, *The Revolution of 1525: The German Peasants War from a New Perspective,* tr. Thomas A. Brady & H. C. Erik Midelfort (Baltimore: The Johns Hopkins University Press, 1985); Frederick Engels, *The Peasant War in Germany*, tr. Moissaye J. Olgin (New York: International Publishers, 1970).

[125] Not only radical protestant reformers in Germany, but some puritan reformers from Anglican Church as well denounced interest. Hugh Latimer (c. 1487- 1555 CE), the bishop of Worcester, and John Jewell (1522- 1571 CE), the bishop of Salisbury, preached all kinds of interest as illicit and Jewell excommunicated usurers from the diocese. Conrad Henry Moehlman, "The Christianization of Interest," *American Society of Church History* 3, no. 1 (1934), 12.

for usury prohibition and egalitarian reorganization of society grounded on scriptures[126]. Repudiating this, Luther proclaimed in the memorandum of Danzig councillors the liberty of every Christian to lend at interest and the basis of interest restrictions should be 'loans in terms of equity' and the status of people involved in the contract[127]. Luther along with Melanchthon reiterated the autonomy of secular authority from gospels[128]. Luther was vehemently critical of any reform from below and disavowed the peasant revolt.

> "If there were thousands more peasants than there are they would all be robbers and murderers, who take the sword with criminal intent to drive out lords, princes, and all else, and make a new order in the world for which they have the God neither command, right, power, nor injunction, as the lords now have to suppress them. They are faithless and perjured, and still worse they bring the Divine Word and gospel to shame and dishonor, a most horrible sin."[129]

In the economic crisis of 1539, Luther again condemned usurers and their princely patrons, yet it was confined to appealing private conscience than any concrete action against authorities[130]. The drastic consequence of Lutheran theology on the discourse of interest is, by separating and then liberating the political authority from the bounds of scriptures, disempowering the interest ridden debtors by delegitimizing the language of critique against interest existed for centuries.

The remaining limited scriptural prohibition was watered down by Calvin[131]. Refuting the Aristotelian notion of barrenness of money held by scholastics, Calvin considered money as the most fruitful possession for trade, and interest earning out of its use as perfectly legitimate. Moving away from literalism, Calvin refuted complete prohibition of interest by reinterpreting and then

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[126] Strauss issued fifty one theses against usury in which receiving anything beyond the principal is defined as usurious contract and violation Christian brotherhood. Nelson, *The idea of usury,* 37-39, 43, 52.

[127] Ibid, 49. On other occasion Luther identified economic conditions and public utility as the parameters for interest regulation. Ibid, 45.

[128] Ibid, 42.

[129] Luther stated this in his letter to John Rühel, the councilor of the Count of Mansfeld. See, Preserved Smith, *The Life and Letters of Martin Luther* (Boston & New York: Houghton Mifflin Company, 1911), 161.

[130] Ibid, 45- 47.

[131] Calvin never voiced any public statement on interest. The only available reference is a letter to his friend Sachinus in 1545, in which he conditions the addressee not to reveal his thoughts without being cautious of the character of the individual to whom it is being revealed. Georgia Elma Harkness, *John Calvin The Man and His Ethics* (Nashville: Abingdon Press, 1931), 204- 205.

transcending the scriptures. Widely held command of Christ against interest, 'Lend, hoping for nothing again' (Luke 6: 35) was redefined as confined to cases of lending to the poor. The deuteronomic prohibition was also reduced as 'political' and its application was restricted to the human discretion of 'justice and philanthropy'. Tracing the Hebrew etymological roots, Calvin revised the Psalms' (55: 11) censure of 'usury' as *'fraud'*. Even the obvious utterances of the Prophet against usury were discredited on the ground that the Prophet did not mention it in the great sins[132]. Grounding on prophet Ezekiel (Ezek. 22:12), he upheld the proscription of usury on Jews in that period, but not extending further:

> "…for the situation in which the Lord had placed the Jews, and many other circumstances, made it easy for them to engage in business among themselves without usury. Our relationship is not at all the same. Therefore I do not consider that usury is wholly forbidden among us, except it be repugnant to justice and charity…*I therefore conclude that usury must be judged, not by any particular passage of Scripture, but simply by the rules of equity*."[133] [Emphasis original]

Here, moving beyond scriptures, Calvin set the boundaries of legitimate and illegitimate usury based on his perception of reality and evaluation of it on ideals decided by himself. Another statement of Calvin in the letter, "It could be wished that all usury, even the name, were banished from the earth. But since this is impossible, it is necessary to concede to the common good"[134] , shows that feasibility and common good according to the conception of Calvin or other individuals or the civil state can determine the boundaries of virtue and vice.

Similar ideas of Calvin can be found in Bullinger and Viret. By considering money as similar to other objects, Bullinger defined usury as, "…when thou grantest to another the use of thy good, as of land, house, money, or anything else, whereof thou receives some yearly commodity."[135] Therefore, to him, usury per se is not illicit, rather charging exorbitant rates of interest is proscribed

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[132] Ibid, 205.

[133] Ibid, 206.

[134] Ibid, 205.

[135] Henry Bullinger, *The Decades III*, ed. Thomas Harding and trans. H. I (Cambridge: Cambridge University Press, 1850), 40.

by scriptures[136]. Although Bullinger recognizes the consumptive nature of money, he justifies usury since money can be transformed into durable objects[137]. Parallel to this Viret differentiated between interest and usury based on the nature of loans. Interest is considered as legitimate source of income for a Christian since it was charged on productive loans unlike usury which is being charged on consumptive loans.[138] Analogous to the developments in the reformative circle, the Catholic Church also implicitly advanced towards the practical acceptance of interest as redressal for the actual loss (*damnum emergens*) and the loss of profit (*lucrum cessans*) by recognizing usurer's deprivation of the use of money.[139]

These transformations in Christian thought were not happening in vacuum, rather it was on the background of radical shifts in the economic life, in particular the price revolution in Europe from late fifteenth to mid seventeenth century, induced mainly by the colonial expansion. The colonial countries, especially Spain[140], appropriated the control over mines and imported precious metals and other products of colonies in exchange for merchandises from their land. More than 447 million pesos worth treasure, i.e., gold and silver, was imported in between 1503 to 1660[141]. This increased supply of precious metals from American mines reduced the real value of silver and consequently caused inflation[142]. From 1490 to 1650, the price increase experienced in Europe in every year on an average was 1 percent.[143] This temporal devaluation of money which persisted

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[136] Like Calvin, Bullinger too identifies inequity and distress of neighbor as criteria to determine usury prohibition. Ibid, 41.

[137] Ibid, 41- 42.

[138] Moehlman, "The Christianization of Interest," 11.

[139] Hector Menteith Robertson, *Aspects of the Rise of Economic Individualism: A Criticism of Max Weber and His School* (New York: Kelley & Millman, Inc., 1956), 133. Both concepts will be discussed in detail later along with the legalization of interest.

[140] Since the King of Spain had debts from various sources, the imported treasure was circulated as loan repayment across Europe. Pierre Vilar, *A History of Gold and Money 1450- 1920,* tr. Judith White (London: NLB, 1976), 144-145.

[141] Earl J. Hamilton, *American Treasure and the Price Revolution in Spain, 1501-1650* (Cambridge: Harvard University Press, 1934), 33-34.

[142] Adam Smith, *An Inquiry into the Nature and causes of the Wealth of Nations, Volume I* (London: George Bell and Sons, 1887), 200-201.

[143] Comparing to the contemporary inflation rates, 1 percent inflation every year may sound very minimal. But a juxtaposition with medieval price standards reveals that this was a huge increase persisted for long time. David

more than a century provided the ground for legal validation of interest. To understand this scholastic validation, it is necessary to look into the trajectory of the evolution of the word ‘interest’ attaining the meaning as the payment of money at a specific rate according to the amount of principal to a lender or to a depositor in modern finance.

The initial dissemination of the word interest throughout Europe (in English as *interesse*) was from the Roman law ‘*id quod interest*’, (i.e., “that which matters or is of importance”), which engaged with the adjudication of restitution in real property contracts (e.g. land or cattle) known as *commodatum.* In this, unlike the consumable transactions, the proprietorship was not passed on to the borrower and the exact object had to be returned to the lender by the end of contract period. This legal provision of ‘*id quod interest*’ was used only in instances of violation of the contract or destruction of the contracted property and the judge would determine the indemnity by evaluating the damage.[144] In the medieval period, this clause was further divided into ‘*interest intra rem’* (‘what matters in the thing’, i.e., changes in the quality or attributes of a property being damaged) and ‘*interest extra rem’* (‘what matters beyond the thing’, i.e., reduction or devaluation of the utility of the property to the owner by the damage). This nuance, in particular, *interest extra rem,* opened the possibility to charge beyond the actual damage. Another pair of subdivision within *id quod interest, “damnum emergens* (damage which occurs) and *lucrum cessans* (gain which ceases)” was analogous to *interest intra rem* and *interest extra rem* respectively[145]. Through this provision the owner was entitled to indemnity by claiming the deprivation of the usefulness beyond the actual value of the good in real property contracts. This subtlety not only violated commutative justice but also dismantled the initial scholastic conception that return of loaned property or equal value of it will restore use power to the lender in its entirety. However this provision cannot be applied on money loans or other consumable goods, since these will fall into the category of

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Hackett Fischer, *The Great Wave Price Revolutions and the Rhythm of History* (New York: Oxford University Press, 1996), 70.

[144] Dieter Medicus, *Id quod interest* (Koln: Graz, 1962), quoted in Ernst Wolfgang Orth, *“Interesse”,* in Geschichtliche Grundbegriffe, ed. Otto Brunner, Werner Conze, and Reinhart Koselleck (Stuttgart: Ernst Klett Verlag, 1982), 308, quoted in Dean Mathiowetz, “The Juridical Subject of ‘Interest’,” *Political Theory* 35, no. 4 (2007): 474.

[145] Ibid, 308-309.

*mutuum* contract, and any gain from a *mutuum* loan is considered as usury[146]. Two essential features of *mutuum* contract are: firstly, the proprietorship will be transferred, and secondly, borrower is not subject to return the identical object being borrowed, rather she or he can return similar object in equal quantity[147]. Therefore the lender was not entitled to claim *id quod interest* in *mutuum* contracts since the debtor restituted exact utility with the return.

Nonetheless throughout medieval Europe the merchants used 'interest' as euphemism for usury[148] though it did not succeed in legal transformation till the price revolution. The inflation accompanied by temporal devaluation of money revealed the disparity between loaned money and the return especially after long time. This situation allowed the lender to claim indemnity for the value depreciation of money. However, devaluation was not referred for the legal justification of interest, rather the identification of money as 'tool' of trade furthered the inclusion of money into the category of real property and the recognition of benefit or use of money as a tool that lender forsake to the borrower facilitated its adjudication on *lucrum cessans* in *id quod interest*[149]. What has been conveniently overlooked here is that, labour or effort along with the possession of tool is a mandatory prerequisite for the generation of benefit. By transferring money to the borrower, the lender not only forsake the possession of money but was also freed from efforts and risks involved in business. The conscious negligence of this factor along with a narrow linear perception of future rather than as a realm of multiple possibilities enabled this conceptual innovation in scholastic legality.

Still, to receive back money beyond the principal, the lender had to individually calculate prospective loss of profit in every loan transaction and claim it through *id quod interest* in court. Jesuit theologian Gregorius de Valentia (1549-1603) reduced this requirement into an explicit

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[146] Lessius 20: 4, quoted in Bernard W. Dempsey, *Interest and Usury* (London: Dennis Dobson Ltd, 1948), 142.

[147] Dempsey, *Interest and Usury*, 143.

[148] Orth, "Interesse," 306.

[149] This argument was in circulation among merchants for long and Martunus de Azpilcueta/ Doctor Navarrus (1493- 1586) was the first to recognize this. Comparing money to the tools of artisans, he argued that similar to the entitlement of artisan for the deprivation of profit by lending the tools, the merchants have a right to indemnity for relinquishing the profit by lending money. His work was widely circulated among medieval jurists. Navarrus, *Enchiridion sive manual confessariorum et poenitentium* (Antwero: 1601 [1573]), cap. 17, par. 212; cp. Muñoz de Juana R., *Moral y economía, 249-54,* quoted in Fabio Monsalve & Toon Van Houdt, "Usury and Interest", (unpublished article, will soon appear in *A Companion to the Spanish Scholastics*), 14-15.

intention of lender to receive surplus money for loan by claiming any just title in court.[150] Taking one radical step ahead, Spanish Jesuit theologian Leonardus Lessius (1554- 1623) repealed this 'explicit intention' provision into implicit intention. This not only liberated the lender from exercises of individual calculation of surplus and approaching court, but also authorized him or her to determine the loss of profit in lending[151]. But this created the problem of lender charging more (or less) than the probable loss of profit. Lessius addressed this by introducing a new title that replaced discrete calculation to estimation based on market value for lack of money. This was based on the presupposition that the current value of money is greater than the future value[152], which means money can be treated as a commodity in market since its value deteriorates with the progression in time. Money attained the status as commodity in market by the application of this linear perception of time to it, and thereby transformed the nature of lending from a contract confined among entities into a shared phenomenon completely bound to and determined by the logic of financial market. Although market and money appear as abstract invisible entities, the legitimization of its logic of calculation of prospective loss of profit on every loan undeniably favoured the lender to gain more than principal, without undergoing any risks involved in profit making.

These changes were happening parallel to legislations that tolerated moderate interest. The fifth Lateran Council in 1515 authorised *montes pietatis* or pious pawn banks to retrieve money beyond principal sum, to cover the expenses of the bank[153]. The national synod of Calvinism sanctioned moderate interest. In England, Henry VIII legalised ten percent interest in 1545 and the normalisation of interest in several German states eventually ratified by the imperial diet in 1654[154]. The Catholic Church, in a series of rulings from 1822 to 1836, validated the interest legalised by the secular law and with the introduction of new *Codex juris canonici* in 1917, and

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[150] Gregorius de Valentia, *Commentariorum theologicorum tomus 3* (Ingolstadt: 1595), disp. 5, quaest. 25, dub. 3; Lessius, *De iustitia et iure*, lib. 2, cap. 20, dub. 12, par. 106-108, quoted in Monsalve & Houdt, "Usury and Interest", 17.

[151] Monsalve & Houdt, "Usury and Interest", 17.

[152] Lessius, *De iustitia et iure,* lib. 2, cap. 20, dub. 14, quoted in Monsalve & Houdt, "Usury and Interest", 18.

[153] On the reform of credit organisations (*Montes Pietatis*), Session 10, 4th May 1515, V Lateran Council.

[154] Moehlman, "The Christianization of Interest," 11-12.

all previous laws pertaining to interest were ultimately annulled[155]. Thus wealth generation through interest evolved from deadly sin to normal and legitimate act in western Christianity.

## *Ribā* in Islamic Thought

> "Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affairs rest with Allah. But whoever returns [to dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever…O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal- [thus] you do no wrong, nor are you wronged. (The Qur'ān 2: 275-276, 278- 279)."[156]

The only instance in the entire Qur'ān where a war has been declared is against interest. The word used here for interest is '*ribā',* literally meaning 'increase'.[157] Based on other Qur'ānic verses and *Ḥadīth*[158] Muslim scholars have attempted to define *ribā* in financial transactions. One among the widely used *Ḥadīth* in this regard, reported by Ubida b. al-Simit (583-655) is:

> "Gold is to be paid for by gold, silver by silver, wheat by wheat, barley by barley, dates by dates, and salt by salt, like for like and equal for equal, payment being made hand to hand. If these classes differ, then sell as you wish if payment is made hand to hand."[159]

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155 Noonan, *The Scholastic Analysis of Usury,* 377, 391.

156 *The Quran,* tr. Saheeh International (1997). Some other English translations of Qur'ān used the word 'injustice' instead of wrong. Injustice has been interpreted as economic injustice resulting from unequal transaction. Mahmoud A.El-Gamal, "An attempt to understand the economic wisdom (*ẖikma*) in the prohibition of *riba*", in *Interest in Islamic Economics Understanding Riba,* ed. Abdulkader Thomas (Taylor & Francis e-Library, 2006), 112.

157 Al-Khatib Al-Shirbini, *Mughni Al-Muhtaj* (Egypt: Matba'at Al-Babi Al-Halabi,n.d.), 2.61; Al-Ramli, *Nihayat Al-Muhtaj* (Egypt: Al-Matba'at Al-Bhiyya, n.d.),3.29 quoted in Sh. Wahba Al Zuhayli, "The juridical meaning of Riba," tr. Iman Abdul Rahim and Abdulkader Thomas, in *Interest in Islamic Economics Understanding Riba,* ed. Abdulkader Thomas (Taylor & Francis e-Library, 2006), 25.

158 Ḥadīth literature is the collection of documented actions, words and quiet validations of the Prophet Muhammad (ﷺ).

159 Muslim ibn al-Ḥajjāj al-Naysaburi, *Kitab al-Musaqa,* Book 22, Ḥadīth 102.

Based on this, the scholars are in consensus (Ar., *Ijmā*) that, in transaction of *Mal Ribawi* (the commodities listed above and similar commodities established through deductive analogy (Ar., *Qiyās*[160]) the quantity should be equal and exchange should be on spot. Violation of these terms will result in *ribā,* in particular the unequal transaction will lead to '*ribā al-faḍl'* and delayed transaction will be '*ribā al-nasi`ah'.* In exchange of different commodities of *Māl Ribawi,* only the transgression of the second rule will lead to *ribā*[161]. The *Shāfi'i* school of Islamic jurisprudence (Ar., *madhhab*) has one more category of *ribā,* i.e., in transaction of *Māl Ribawi*, if either of the parties or both of them, do not have possession over the commodity, then the exchange will fall into *ribā al-yad.*[162] Although all four major schools of Islamic jurisprudence in Sunni Islam extend the scope of *Māl Ribawi* through deductive analogy, they differ on *'illah,* i.e., the principal cause or reason for the deductive analogy. According to *Shāfi'i madhhab*, gold and silver carry intrinsic universal monetary value while the other four products belong to the category of eatables. Therefore all eatables and anything that possesses intrinsic universal monetary value will be considered as *Māl Ribawi.* The *Mālikī madhhab* holds similar *'illah* like *Shāfi'is,* except that edible commodities should also be nourishing and preservable to be in *ribā al-faḍl*. For the *Ḥanafī madhhab* the *'illah* is the weighable and measurable nature of commodities. Consequently all weighable and measurable commodities constitute *Māl Ribawi.* The *Ḥanbalī madhhab* follows the same *'illah* of *Ḥanafī madhhab*.[163]

Apart from this, any loan transaction that conditions to derive any benefit to the lender is *ribā.* The authority for this reading is derived from the *Ḥadīth* reported by al-Ḥārithah bin Abu Usamah that, "Every loan, which leads to a benefit, is ribā."[164] Nonetheless voluntary offering by the debtor is

[160] The *Ẓāhirī madhhab* does not recognise *Qiyās,* therefore *Mal Ribawi* is confined to the six commodities mentioned in the *Ḥadīth.* The scope of this thesis being the juridical interpretation of *ribā* is confined to four major *madhhabs* of Sunni Islam.

[161] Zuhayli, " The juridical meaning of Riba," 26-27.

[162] Shaykh Zainuddin Makhdum, *Fath-hul mu'een Ashaya Samgraham,* ed. & tr. V. Abdul Majeed Faizi and et. al. (Calicut: Poomkavanam Publications, 2017), 311. For other *madhhabs* this *ribā* is included within *ribā al-nasi`ah.*

[163] Zuhayli, " The juridical meaning of Riba," 29-39.

[164] Ibn Ḥajar al-'Asqalānī, *Blwġ ālmrām,* Book 7, Ḥadīth 861.

permitted[165] though the lender is barred from receiving it prior to the repayment of debt due to the possibility that it may lead to *ribā.*[166] Both decreasing and increasing the debt amount against an early or delayed payment of debt is forbidden by all four major schools of jurisprudence of *Sunni* Islam.[167] While the former one has been justified by scholars like Ibn Taymīyyah (1263- 1328) and Ibn Qayyim al-Jawzīyyah (1292-1350),[168] the latter one- also known as *ribā al-jāhilīyyah*- is unanimously prohibited by all scholars, to the extent that Imām Mālik bin Anas (711-795) identified *ribā* as the gravest proscription in Islam.[169] The punishment for *ribā* is extended to all entities involved in the act, i.e., lender, borrower, recorder and witness of *ribā*. This position is based on the *Ḥadīth* reported by Jabir bin ‘Abdullah (607-697) that “Allah’s Messenger (ﷺ) cursed the accepter of ribā and its payer, and one who records it, and the two witnessed, and he said: They are all equal”.[170] Even so some scholars exempted borrowers out of necessity from *Ḥarām;* still it will be *Makrūh*.[171]

The Qur’ānic censure of *ribā* has evolved from initial mild admonition, “And whatever you give for interest [i.e., advantage] to increase within the wealth of people will not increase with Allah. But what you give in zakāh, desiring the face [i.e., approval] of Allah- those are the multiplier.” (The Qur’ān 30:39)[172], towards complete and explicit negation in later years. Due to this stringent injunction on *ribā,* the question left to address for Islamic scholars was, why Islam outlawed *ribā* categorically. According to Imām al- Ghazzālī (c.1058- 1111) *ribā* infringes the function of money

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[165] This approval is based on the Ḥadīth reported by *Jabir bin ‘Abdullah* that after selling a camel to Prophet (ﷺ), he returned both the price and the camel back to *Jabir* as gift. Muḥammad ibn Ismā‘īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī,* Book 34, Ḥadīth 50.

[166] Emad H. Khalil, “An overview of Sharia’s prohibition of riba”, in in *Interest in Islamic Economics: Understanding Riba,* ed. Abdulkader Thomas (Taylor & Francis e-Library, 2006), 57.

[167] Zuhayli, “The juridical meaning of Riba,” 41.

[168] Ridha Saadallah, “Concept of Time in Islamic Economics,” *Islamic Economic Studies* 2, no.1 (1994): 92.

[169] Al-Qurtubi, M. (1996). *Al-Jami‘li-Ahkam Al-Qur’an* (Dar Al-Kutub Al-‘Ilmiyyah, Beirut, quoted in Mahmoud A. El-Gamal, *Islamic Finance Law, Economics and Practice* (New York: Cambridge University Press, 2006), 49.

[170] Muslim ibn al-Ḥajjāj al-Naysaburi, *Kitab al-Musaqa,* Book 22, Ḥadīth 132.

[171] Makhdum, *Fath-hul mu’een,* 311. In *Aḥkām Sharī‘ah* (rulings of Islamic Law) *Ḥarām* represents completely forbidden act subject to punishment whereas *Makrūh* stands for detestable act not subject to punishment and refraining from it is rewarded.

[172] *The Quran,* tr. Saheeh International (1997).

as medium of exchange.[173] For Ibn Rushd (1126- 1198) general equivalence in transaction is a requisite to ensure justice and *ribā* proscription ensures justice by preventing deception and exploitation in transactions.[174] Rushd states:

> "…what is targeted by the prohibition of *ribā* is the excessive inequity it entails. In this regard, equity in certain transactions is achieved through equality. Since the attainment of equality in exchange of items of different kinds is difficult, we use their values in monetary terms. Thus, equity may be ensured through proportionality of value of goods that are not measured by weight and volume. Thus, the ratio of exchanged quantities will be determined by the ratio of values of the different types of goods traded…As for [fungible] goods measured by volume or weight, equity requires equality, since they are relatively homogeneous, and thus have similar benefits. Since it is not necessary for a person owning one of those goods to exchange it for goods of the same type, justice in this case is achieved by equating volume or weight, since the benefits are very similar."[175]

Ibn Taymīyyah (1263-1328) also recognised the exploitative nature of *ribā,* particularly in loan transactions, in which, on the basis of speculation of profit, the lender extracts wealth beyond principal unjustly.[176] Similar to Aristotle Ibn Qayyim (1292-1350) identified the primary objective of money as medium of exchange and, moving a step ahead, he astutely forecasted the possibility of inflation if money turns into a commodity in *ribā* exchange:

> "Dirhams and dinars are the prices of articles sold and the price is the standard by which the evaluation of property is recognized. It must therefore be fixed and regulated so that it does not go up or down, since were the price to up or down like commodities, we would not have a price with which to value the articles sold. Indeed, everything is a commodity and the people's need for a price by which to value the articles sold is a general and compelling one. Such valuing is not possible save on the basis of a rate by which to know value. This requires a price on the basis of which things are

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[173] Analogous to Aristotle, *al- Ghazzālī* denounced the appropriation of money for its own end. Similar view towards wealth can be found in *Ibn Taymīyyah* and *Ibn Qayyim* as well. Al-Ghazali, Abu Hamid (n.d.[a]), '*Iḥyā' 'Ulūm al-Dīn,* Beirut, Dar al-Nadwa, vol.4, p. 192-3, 114-15, quoted in Abdul Azim Islahi, *History of Islamic Economic Thought: Contributions of Muslim Scholars to Economic Thought and Analysis* (Cheltenham: Edward Elgar Publishing Limited, 2014), 37, 41.

[174] Ibn Rushd (1988), *Bidāyat al-Mujtahid,* Beirut, Dar al-Ma'rifah, quoted in Ibid, 42.

[175] Ibn Rushd, M. (1997). *Bidayat Al-Mujtahid wa Nihayat Al-Muqtasid* (Dar Al-Ma'rifah, Beirut), vol.3, p.184, quoted in El-Gamal, *Islamic Finance*, 52-53.

[176] Ibn Taymīyah (1963), *Majmū' Fatāwā Shaykh al-Islām Ahmad Ibn Taymīyah,* edited by al- Najdi, Abd al-Rahman b. Muhammad, Al-Riyad, Matabi' al-Riyad, Vol.29, pp.419, quoted in Ibid, 40.

> assessed, which continues upon one state of affairs, and which is not (itself) assessed by reference to anything else. If it becomes a commodity which goes up and down, then the transactions of the people will be impaired..."[177]

Al-Zayla'i (d. 1342) and Ibn al-Humām (1388- 1457) identified the possibility of variation in the value of commodities over time, therefore the prohibition of deferred transaction will protect from non-equivalent exchanges.[178] These rationalisations of *ribā* proscription shaped modern discourse on *ribā* considerably.

Numerous legalistic trickeries[179] (Ar., *Ḥiyal*) in which by adhering to the letter of law, a legal censure will be evaded, were developed to override *ribā* prohibition. According to *Ḥanbalī* and *Mālikī madhhabs,* intention of parties involved in transaction is significant to determine the validity of transaction unlike *Shāfiʿi* and *Ḥanafī madhhabs,* in which it is impossible to determine the intention behind either the divine law or the agencies involved in the act. Therefore following the letter of *Sharīʻah* is only required. Thereforethe *Shāfiʿi* and *Ḥanafī madhhabs* sanctioned *Ḥiyal* while *Mālikī madhhab* vehemently censured it[180].

Widely employed *Ḥiyal* in this regard is double sale (Ar., *Bayʻ al-ʻīnah*) in which the borrower sells an article to the lender and buys back on credit the same article from the lender for an increased price. The difference between the first and the second sale of the article functions in fact as interest. *Ḥanbalī madhhab* allowed this transaction in situations of extreme necessity by the borrower[181]. However the practice had very limited significance for medieval Muslim communities on financing commerce and the need was fulfilled by several partnership businesses[182]. With the global entrenchment of finance capitalism in post-colonial world, this

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[177] W.M Ballantyne, *The Commercial Law in the Arab Middle East: the Gulf States* (London: Lloyds of London Press, 1986), p. 123, quoted in Khalil, "An overview of Sharia's prohibition of riba," 55.

[178] Ibn al-Humam, (n.d), *Sharh Fat'h al-Qadīr,* Cairo, al-Maktabah al-Tijariyah al-Kubra, vol.7, p.7; al-Zayla'i, Uthman (n.d), *Tab'īn al-Haqā'iq,* Beirut, Dar al-Marifah, vol.4, p.78, quoted in Ibid, 41.

[179] Widely accepted English equivalent of the word *Ḥiyal* is legalistic trickery. Though word trickery has a negative connotation in English language, the word *Ḥiyal* is used both positively and negatively in Islamic jurisprudence.

[180] Mir Siadat Ali Khan, "The Mohammedan Laws against Usury and How They Are Evaded," *Journal of Comparative Legislation and Law* 11, no.4 (1929): 234.

[181] Ibid, 243.

[182] Shelomo Dov Goitein, *A Mediterranean Society The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza Vol. 1* (Berkeley: University of California Press, 1967), 170. The partnership trade

restricted significance of *ribā* in economic life ruptured irreversibly and thereby leading to the emergence of novel interpretations of *ribā* in modern world.

## Modern Islamic Engagement with *Ribā*

> "There will come a time when there will be no one left who does not consume *ribā,* and whoever does not consume it will nevertheless be affected by it."[183]

Reported by Abu Hurairah (603- 678), the prophecy in this *Ḥadīth* not only immensely influenced the modern discourse on *ribā*, but also reinforced the apocalyptic conviction among many Muslims that the pervasive existence of *ribā* in modern finance is a minor sign of the Day of Resurrection (Ar., *Yawm al-Qiyāmah*) . Al- Sindhi, an eighteenth century Islamic scholar, commented on this *Ḥadīth:* "This refers to our own times. Verily we belong to Allah, and unto Allah is our return!"[184]

The emergence of innovative ways of wealth generation under modern finance capitalism posed novel challenge to Islamic scholars as they had to adjudicate on the legality of these financial innovations and one cardinal question in this regard was whether these new means fall into the domain of *ribā.* One of the earliest notable injunctions concerning this was the *fatwa* or legal opinion issued by Sheikh Muḥammad ʻAbduh (1849- 1905), the Grand Mufti of Egypt, on the permissibility of predetermined returns on the post office savings fund (Ar., *Sanduq al-Tawfir*). To ʻAbduh, the return in itself is *ḥarām* since the post office is receiving loans not out of compelling need, but if it is transformed into *muḍārabah* contract, then it will be legally permissible.[185] Rashīd Riḍā (1865- 1935), disciple of ʻAbduh, confined the prohibition of *ribā* to

flourished among Muslim communities in Indian ocean commerce prior to colonialism. See, Shelomo Dov Goitein, *Studies in Islamic History and Institutions* (Leiden: Brill, 2010), 335.

[183] Ibn Majah, *Sunan Ibn Mājah, Kitab al-Taja'ra't,* Book 12, Ḥadīth 142.

[184] Sh. Yusuf Talal DeLorenzo, "Introduction to understanding *riba"*, in *Interest in Islamic Economics Understanding Riba,* ed. Abdulkader Thomas (Taylor & Francis e-Library, 2006), 8.

[185] *Abduh* vehemently opposed bank interest unlike the return from government savings fund on the ground that the latter is beneficial to both parties involved. There is a possibility of *Rashīd Riḍā'*s ideas being incorporated into *Abduh* since the access to *'Abduh*'s view on *ribā* is coming from the writings of *Riḍā.* Riḍā, Muḥammad Rashīd.1904. "Ṣundūq al-tawfīr fī idārat al-barīd." *Al-Manār,* 7:28-29; 1906. "Faṣl fī ḥikmat taḥrīm al-ribā." *al-Manār.* 9:345-352, quoted in Chibli Mallat, "Tantawi on Banking Operations in Egypt," in *Islamic Legal Interpretation Muftis and their Fatwas,* ed. Muhammad Khalid Masud, Brinkley Messick and David S. Powers (Cambridge: Harvard University Press, 1996), 286-287. *Muḍārabah* is a profit and loss sharing contract in which one party invests capital while the other invests labour in the business.

*ribā al-jāhilīyyah* which he interpreted as compound interest of modern times. Riḍā advanced this narrow definition relying on *Ibn* Qayyim's subcategorization of *ribā* into manifest (Ar., *ribā al-nasi`ah*) and hidden (Ar., *ribā al-faḍl*) *ribā.* For Ibn Qayyim, the rationale for the censure of manifest *ribā* is the severe evil or harm it inflicts whereas hidden *ribā* is proscribed since it will lead to manifest *ribā* and the prohibition of manifest *ribā* is more rigid than hidden *ribā.* He also propounded that an action which is outlawed to forestall a sin can be legitimised if that yields more good. Consequently the hidden *ribā al-faḍl* can be legitimised to satisfy needs while manifest *ribā al-nasi`ah* can only be sanctioned for unavoidable necessary requisites. Ibn Qayyim formulated this nuance in particular to accommodate the cost of labour in the transaction of unequal quantity of gold or silver ornament and its metal since that will fall into *ribā al-faḍl.* Similarly advanced and deferred payments were tolerated in situations of indispensable necessities[186]. Based on the larger premise of this logic, Riḍā classified both *ribā al-faḍl* and *ribā al-nasi`ah* as hidden *ribā* and *ribā al-jāhilīyyah*, i.e., compound interest, as the sole manifest *ribā* directly prohibited unlike the former ones which will be proscribed only if it causes manifest riba.[187] This interpretation, nonetheless, is contentious because firstly, it is not evident from the writings of Ibn Qayyim whether manifest *ribā* is *ribā al-jāhilīyyah* exclusively, and secondly, currency was never part of this rationale for Ibn Qayyim.[188] Still modernist interpreters of *ribā* continue to rely on this restricted analysis of Ibn Qayyim to exclude interest from the purview of *ribā.*

In a similar line of thought, Ibrahim Zaki Badawi, as part of the preparatory commission of Egyptian Civil Code of 1948, postulated in his article, *Nazariyyat al-Riba al-Muharram fi al-Sharia'a al-Islamiyya* (The Theory of Prohibited Riba in *Sharia*), that only *ribā* forthrightly prohibited is *ribā al-jāhilīyyah* based on the *Ḥadīth* reported by Ibn Abbas (c.619- c.687) and narrated by Abu Salih Az-Zaiyat:

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[186] Ibn al-Qayyim, *I' lam al-Muwaqqi'in,* vol.2, 153-64, 47, 49, 52, quoted in Khalil, "An overview of Sharia's prohibition of riba", 59-60. See also, Abdul Azim Islahi, *Economic Thought of Ibn al- Qayyim (1292-1350 A.D)* (Jeddah: King Abdul Aziz University, 1982), 8-12.

[187] *Fatawa al-Imam Muhammad Rashid Rida,* vol. II, 1970, p. 608, quoted in Emad H. Khalil & Abdulkader Thomas, "The modern debate over *riba* in Egypt", in *Interest in Islamic Economics Understanding Riba,* ed. Abdulkader Thomas (Taylor & Francis e-Library, 2006), 69-70.

[188] For *Ibn Qayyim,* unlike other commodities, *ribā al-faḍl* in money will result in the corruption of entire financial transactions and rejected considering the minting cost in transaction of coin to its metal. Khalil, "An overview of Sharia's prohibition of riba", 59, 61. See p. 28-29 as well.

> "I heard Abu Saīd Al-Khudri saying, "The selling of a Dinar for a Dinar, and a Dirham for a Dirham (is permissible)." I said to him, "Ibn ¯Abbas does not say the same." Abu Saīd replied, "I asked Ibn ¯Abbas whether he had heard it from the Prophet (ﷺ) s or seen it in the Holy Book. Ibn ¯Abbas replied, "I do not claim that, and you know Allah's Messenger (ﷺ) better than I, but Usama informed me that the Prophet said, 'There is no Riba (in money exchange) except when it is not done from hand to hand (i.e., when there is delay in payment).' "[189]

Badawi specified *ribā al-jāhilīyyah* as rising the debt amount to extend the due date. Then he argued loans in modern times are primarily productive loans from which the borrower amasses profit and therefore lender is validly entitled for some share from this profit.[190] Nonetheless, two decades later, in a more detailed study of the subject, Badawi reverted back from this to a broader definition of *ribā al-jāhilīyyah* as any rise from the principal for deferred payment of debt. He identified the rationale behind the proscriptions of both *ribā al-faḍl* and *ribā al-nasi`ah* as (hidden and manifest *ribā*) fundamentally to curb exploitation and recognised the scope of *ribā al-faḍl* beyond the six objects stated in the *Ḥadīth.* Most significantly, Badawi postulated that both Ibn Abbas and Ibn Qayyim have only sanctioned *ribā al-faḍl,*[191] thereby effectively bringing back interest within *ribā.*

Developing from the initial analysis of Badawi, 'Abd al-Razzāq al-Sanhūrī (1895- 1971), the key contributor to the Egyptian Civil Code of 1948[192], categorised *ribā* into four forms, i.e., *ribā al-faḍl, ribā al-nasi`ah,* interest bearing loans, and *ribā al-jāhilīyyah.* He justified its prohibition to prevent the monopoly over eatables, to thwart the corruption of the value of money and to forestall exploitation and injustice. For Sanhūrī the only form of manifest *ribā* directly forbidden for its own sake was *ribā al-jāhilīyyah,* which he interpreted as compound interest and said that it is

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[189] Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī,* Book 34, Ḥadīth 128. Being the final Ḥadīth on *ribā, Ibn Abbas* viewed this Ḥadīth as more valid and therefore as overriding all previous Ḥadīths on *ribā* unlike others who maintain that this Ḥadīth only stressed the significance of *ribā* in deferred payments. Khalil, "An overview of Sharia's prohibition of riba", 59.

[190] Badawi, I.Z., "Nazariyyat al-Riba al-Muharram," *Majallat al-Qanun wal-Iqtisad,* April and May 1939, Cairo, Part I, pp. 387- 446, and Part II, pp.533-66, quoted in Khalil & Thomas, "The modern debate over riba in Egypt", 71.

[191] Ibid, 269-270 quoted in Ibid, 75-76.

[192] *Sanhūrī* also played a major role in the formulation of civil codes of other Arab nations like Syria, Iraq, Libya and Kuwait and he was also part of drafting civil codes of Sudan, Bahrain and UAE.

justified for the borrower to engage in *ribā al-jāhilīyyah* in necessary circumstances though the lender will always be guilty of *ribā.* The other three forms of *ribā,* proscribed as means to *ribā al-jāhilīyyah,* can be superseded to fulfil the needs. Here Sanhūrī justified the inclusion of loan interest into the category of implicit *ribā* by arguing that the real classification to consider for *ribā* is that sales and loan interest will become *ribawi* transaction by analogy to sales. Secondly, by comparing interest on loans to bill of trade in which, if the transaction benefits both parties and no condition of benefit is attached in the contract, then the transaction is valid in circumstances of need. Then *Sanhūrī* defined need as the net benefit derived by permitting *ribā*, the scale of the permissibility depending on this need. Subsequently, he expanded the realm of need from the parties involved in contract to larger social space where all contracts occur and then placed this need in capitalist economic system where the principal source of capital is via loans and through this, workers can access capital to produce goods. To him, both Islamic partnership contracts and modern stocks and other mechanisms are inadequate to satisfy the need for capital. Sanhūrī then projected the lender as weak entity compared to the borrower and thereby legitimised lender's entitlement for indemnity in the form of interest for the capital.[193] With this interpretation Sanhūrī normalised bank interest as legitimate practice in Islamic jurisprudence.

The culminating moment in the discourse of restricted interpretation of *ribā* was the *fatwā* by Muhammad Sayyid Tantawi (1928-2010), the grand mufti of Egypt (1986-1996) on banking, in particular on the legitimisation of the capitalisation certificates (Ar., *shahādāt al-istithmār*), i.e., Egyptian government bonds issued by banks to the public. Departing from the existing method of issuing *fatwa*, Tantawi relied on expert opinion to determine the nature of capitalisation certificates. He justified this move by expanding the scope of a *Qur'ānic* verse (21:7), "…so ask the people of the message [i.e., former scriptures] if you do not know"[194], as anyone who has expertise in arts and science.[195] This move not only recognised the limitation of *sharī'ah* on

[193] 'Abdul-Razzāq Al-Sanhūrī, *Maṣādir Al-Ḥaqq fī Al-fiqh Al-Islāmī (The Sources of Rights in Islamic Jurisprudence),* tr. Mahmoud Amin El-Gamal, "Al- Sanhūrī on Riba," (Rice University, 2019), 45-50.

[194] *The Quran,* tr. Saheeh International (1997).

[195] Muḥsin Aḥmad Khuḍayrī, *al-Banūk al-islāmiyya,* (Cairo: Dār al-Ḥurriyya, 1990), 353-354, quoted in, Mallat, "Tantawi on Banking Operations in Egypt," 288-289.

adjudication of complexities of modern life, but also validated the epistemology of modern science confined to the material realm, antithetical to Islam.

The major criticism against capitalisation certificates arose within the committee formed for the same was that the predetermined returns violate the rules of *muḍārabah.* Citing Muḥammad ibn ʻAbd al-Wahhāb al-khallaf, Tantawi argued that the reason behind predetermined returns is to avert the conflict between the owner of the capital and the bank especially due to the possibility of deception from the latter's side. Also, the returns are not completely predetermined since they fluctuate from 4 to 16 per cent. The solution he proposed was to alter the word used for the returns from *fā'ida* (interest) to *ʻā'id istithmārī* (capitalisation return) or *ribḥ istithmārī* (capitalisation profit), because in popular psyche the former is identified as *ribā*. Through this Tantawi projected capitalisation certificates as valid *muḍārabah*. Secondly categorising capitalisation certificates as innovative and mutually beneficial financial transaction between the state and the individual which is advantageous to the larger *Muslim Ummah* as well, Tantawi concluded capitalisation certificates as *ḥalāl* way of wealth generation[196]. What is interesting to note here is that, like Christian predecessors who justified interest, Tantawi also partly depended on larger social welfare argument beyond the scriptures to legalise capitalisation certificates. Following Tantawi's judgement, Nasr Farid Wassel, the grand mufti of Egypt (1996-2002), asserted that all financial transactions with the bank are *ḥalāl* if the returns are from investment in *ḥalāl* business[197].

One common justification of all these narrow interpretations of *ribā* is relied on context specific analysis of Islamic modernism, explicitly stated in the words of Fazlur Rahman (1919- 1988):

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[196] Ibid, 359-363, quoted in Ibid, 292-294. *Tantawi* extended the application of this *fatwā* to fixed returns on bank deposits and investments as fee paid by the user of capital to the owner of capital and any amount the former receives beyond profit will be considered as wage for the user of capital. Muhammad Sayyid Tantawi, ʻAl-haram wa-l-halal fi muʻamalat al-banuk wa-l-mal', Al-Ahram, 29 May 1991, quoted in Charles Tripp, *Islam and the Moral Economy: The Challenge of Capitalism* (New York: Cambridge University Press, 2006), 130.

[197] Agence France-Presse, 22 August 1997, quoted in Ibrahim Warde, *Islamic Finance in the Global Economy* (Edinburg: Edinburg University Press, 2000), 57. Notwithstanding the supremacy of Egyptian Muftis in Sunni Muslim world, the federal court of Pakistan viewed it as an isolated opinion of *Tantawi* and rejected the *fatwā.* Ibid.

> "As long as our society has not been reconstructed on the Islamic pattern outlined above, it would be suicidal for the economic welfare of the society and the financial system of the country and would also be contrary to the spirit and intentions of the Qur'ān and Sunnah to abolish bank-interest."[198]

This approach of limiting the scope of *ribā* under a non-Islamic economic system has been rejected by both the report of the Council of Islamic Ideology of Pakistan (1983) and the Islamic Fiqh Academy of the Organisation of Islamic Co-operation, by including all forms of interest in the purview of *ribā*[199]. Many scholars also have challenged this interpretation by pointing out the implicit assumption within it that Islam is unable to provide an authentic and effective alternative to the modern financial system[200]. Muhammad Abu Zahra (1898-1974) criticised Sanhūrī's legalisation of *ribā* in situations of need by identifying the enormous extent of difference between the permissibility of intoxications or other prohibited substances in critical circumstances and *ribā.* Even if this logic applies to *ribā,* still it will be limited to individual level, not social level. Also mere need cannot justify *ribā,* it requires compelling necessity to validate *ribā,* and that too is confined to the borrower, not the lender. For Zahra, modern bank interest is *ribā al-jāhilīyyah.* He debunks the interest from production loans since the capital can be acquired through *muḍārabah.*[201] In the view of Jadd al-Haqq 'Ali Jadd al-Haqq (1917- 1996), the grand *Imām* of *Al-Azhar* (1982-1996), *ribā* comprises of rise in money devoid of compensation by returning money from money. The transaction is considered as unjust and discriminatory since the generation of wealth involves neither effort or labour nor sharing of risk by the lender.[202] Citing *Qur'ān* 2:279, "…But if you repent, you may have your principal…"[203], Shaykh Wahbah al-Zuhayli (1932-2015)

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[198] In this regard, the perennial inflationary nature of the modern economy is cited as justification for interest. Fazlur Rahman, "Ribā and Interest," *Islamic Studies* 3, no. 1 (1964): 41.

[199] Tripp, *Islam and the Moral Economy,* 131.

[200] Sh. Yusuf Talal DeLorenzo, "Introduction to understanding *riba",* in *Interest in Islamic Economics Understanding Riba,* ed. Abdulkader Thomas (Taylor & Francis e-Library, 2006), 1.

[201] "The Debate on Riba and Interest in Twentieth Century Jurisprudence," *Islamic Law and Finance,* ed. C. Mallat (London: Graham & Trotman, 1988), 76-79, quoted in Khalil & Thomas, "The modern debate over riba in Egypt", 76-77.

[202] Shaikh al-Azhar yashruh', Al-Siyasah, 12 May 1991; Hasan 'Ali Daba, 'Dr Yusuf al-Qardawi: al-hujum ak-hali 'ala al-banuk al islamiyah fitnah kubra', Al-Sha'b. 21 March 1997, quoted in Tripp, *Islam and the Moral Economy,* 132.

[203] *The Quran,* tr. Saheeh International (1997).

includes bank interest in *ribā.* Also he interprets the *Ḥadīth* reported by Usama bin Zayd[204] as not confining *ribā* to delayed payments; rather it is indicating the rampant existence of manifest *ribā al-nasi`ah* compared to hidden *ribā al-faḍl* in modern world[205]. The rationale he postulated for *ribā* prohibition is: to prevent manipulation of borrowers, check monetary instability caused by variations in the value of currencies, and to forestall the manufactured scarcity of foodstuffs resulting from hoarding[206]. In the view of ʻAbd al-Hamid al-Ghazzali, the interest ridden financial system is prone to economic crisis since it fosters exploitation, decreases production, and misuses resources[207]. Al-Hamza Daʻbas propounded both social malignancy and disutility and implicit oppression in any interest based transaction as justifications for *ribā* proscription.[208]

Many Islamic economists advanced economic arguments for *ribā* prohibition by relating the perverseness of *ribā* in financial system to the crisis of global economy. Muhammad Umer Chapra (b.1933) identified the principal objective of Islam as justice and the prohibition of *ribā* serves this fundamental purpose. In profit and loss sharing contracts unlike interest bearing loans, Chapra argues, neither the financier won't be deprived of legitimate share of profit when profit is high nor the entrepreneur won't fall into indebtedness in in situations of loss. Also, in an interest based financial system the criterion for lending capital is the financial ability of the entrepreneur to provide collateral guarantee and repay the debt, not the economic potential of the proposed business. This situation not only excludes the poor from accessing finance capital, but also leads to imprudent and unproductive utilisation of financial resources by promoting extravagance. This diminishes the availability of resources for development and need fulfilment besides engendering macroeconomic and external imbalances. Consequently, investment rate and economic growth are detrimentally affected by this, ultimately resulting in rising unemployment and inequalities. Chapra suggests Islamic method of profit and loss sharing as a solution to promote productive

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[204] See page no. 37-38.

[205] Zuhayli, "The juridical meaning of Riba," 33-34.

[206] Wahbah Al-Zuhayli, *Al-Fiqh Al-Islami wa Adillatuh vol.5,* (Damascus: Dar Al- Fikr, 1997), 3713, quoted in El-Gamal, *Islamic Finance*, 50.

[207] ʻAbd al-Hamid al Ghazzali, *Al- Arbah wa-l-fawa'id al-masrafiyah bayna al-tahlil al-iqtisadi wa-l-hukm al-shar'i* (Cairo, 1990), 14, quoted in Tripp, *Islam and the Moral Economy,* 132.

[208] Al Hamza Daʻbas, *'Dhalik bi-anhum qalu inama al-bay' mithl al-riba',* Al-Da'wah, No. 4 (October 1976), quoted in Ibid.

investment and holistic economic growth. Also the easy accessibility of credit, especially short term credit, based primarily on the economic status of the borrower instead of the soundness of business project, leads to unproductive use of capital, eventually ends up in debt crisis. This financial fragility coupled with varying interest rates induces continuous transfer of finance capital among countries to take the advantage of difference in interest rates, finally resulting in turbulent financial situation of fluctuating exchange rates and unstable commodity and stock prices. This unstable economic situation increases the chances of wrong estimation of business projects, thereby hinders capital formation furthering economic uncertainty. In an economic system based on equitable profit and loss sharing, the financier will be cautious before allocating resources and this will lead to more productive investment. In an economic system devoid of volatile interest rates, the value of the currency indicates the real leverage of the economy. Also comparatively long term structural imbalances and variations in growth rates will contribute to relatively steady exchange rates, and stable and reliable economy.[209]

Debunking Islamic modernist view that *ribā* prohibition is primarily to prevent the exploitation of poor borrowers in consumption loans, Mahmoud A. El-Gamal (b.1963) argues that in pre-Islamic Arabia *ribā al-jāhilīyyah* mainly functioned for commercial financing. He also critiques the misconception within Islamic economists, who understand *ribā* in terms of modern interest, that Islam denounces time value of money. He points out that all major eight schools of jurisprudence in Islam acknowledged time as a factor in the determination of prices[210]. Gamal bases his argument on the *Ḥadīth* reported by Abd Sa'id:

> "Bilal (Allah be pleased with him) came with fine quality of dates. Allah's Messenger (ﷺ) said to him: From where (you have brought them)? Bilal said: We had inferior quality of dates and I exchanged two sa's (of inferior quality) with one sa (of fine quality) as food for Allah's Apostle (ﷺ), whereupon Allah's Messenger (ﷺ) said: Woe! It is in fact *ribā*; therefore don't do that. But when you intend to buy dates (of superior quality), sell (the inferior quality) in a separate bargain and then buy (the superior quality)."[211]

[209] M. Umer Chapra, *Prohibition of Interest Does It Make Sense?*, 3rd ed. (Delhi: Markazi Maktaba Islami Publishers, 2016), 19- 30.

[210] Gamal, "An attempt to understand the economic wisdom (*ḫikma*) in the prohibition of *riba*," 112-113.

[211] Muslim ibn al-Ḥajjāj al-Naysaburi, *Kitab al-Musaqa,* Book 22, Ḥadīth 122.

Further, developing on Ibn Rushd's interpretation of *ribā,*[212] Gamal argues that, the injunction of the Prophet (ﷺ) will create an economic system in which the ratio of barter transaction will be the ratio of prices which in turn will be the ratio of marginal utilities, resulting in the maximisation of allocative efficiency of the economy. For Gamal the intention behind *ribā* prohibition is justice attained by equitably recompensing each entity for the value of their products determined by the market.[213] In a similar line of thought, Ibrahim Warde defines *ribā* as any illicit gain acquired by the 'quantitative inequality of the counter values.' Therefore both interest and usury are but forms of *ribā.*[214]

However the justification of *ribā* prohibition in terms of materialist logic of economics shifted the fundamental basis of Islamic prohibition of *ribā* as a sin punishable by God to historically contingent theories of positive economics. This danger was surpassed by the assertion by '*Ulamā'* that the material gains deriving through *ribā* will lead to deep moral corruption.[215] This repeated assertion of the moral dimension of *ribā* fundamentally constituted and continues to constitute Muslim subjectivity's engagement with *ribā.*

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[212] See page no. 33-34.

[213] Gamal also employed Pareto's theory of efficiency to derive this conclusion. Gamal, "An attempt to understand the economic wisdom (*ḫikma*) in the prohibition of *riba,*" 114-117.

[214] Warde, *Islamic Finance,* 58.

[215] Shaikh Bakri al-Sufi, Mufti of Egypt, outlawed any form of intercourse with people who pollute their wealth via *ribā,* theft, or other impermissible acts. Tripp, *Islam and the Moral Economy,* 133.

Chapter 2

# Emergence of Islamic Organisations in Kerala

“One peculiarity among them is that they all know the Qur’ān by heart, I saw in the town thirteen schools for girls and twenty three for boys, a thing which I have never seen elsewhere.”[216]

This portrayal of Muslims in the coastal districts of Malabar[217] in the chronicle of Ibn Baṭṭūṭah, the 14th century Moroccan traveller, indicates not only the existence of flourishing educational institutions but also the rootedness of Islam in the lives of Malabari Muslims. The earliest surviving archaeological evidence of Islam in Malabar dates back to 9th century Tarisapalli copper plates though the region had trade links with southern Arabian peninsula much before the advent of Islam in Arabia[218]. Muslims in Malabar were generally divided into Mappilas -the native Muslims- and *Paradesis* -the foreign settlers- and both of them were made up of many diverse communities than being homogeneous groups[219]. These diverse geographical affiliations were also reflected in the composition of Islamic religious scholars[220]. Majority of Muslims in Malabar followed *Shāfiʿi* School of Islamic jurisprudence[221] and this trend continues unhindered in modern

[216] H. A. R Gibb and C. F Beckingham, trans. *The Travels of Ibn Baṭṭūṭa* (London: The Hakluyt Society, 1994), 803.

[217] Malabar coast in this period roughly covers the land between Arabian sea and western Ghats from the port of Barkur in the north and Kollam in the south, although Presently Malabar region comprises of northern districts of the state of Kerala. Sebastian R. Prange, *Monsoon Islam Trade and Faith on the Medieval Malabar Coast* (Cambridge: Cambridge University Press, 2018), 12.

[218] E Kunjanpillai, *Studies in Kerala History* (Kottayam: 1970), 370, quoted in R. E. Miller, “Mappila,” in *The Encyclopedia of Islam,* ed. C. E. Bosworth, E. Van Donzel, Ch. Pellat et. al. (Leiden: E. J Brill, 1991), 6: 458. Two Muslim tomb stones dated 670 and 782 CE have been observed by historians in 19th century. Miller, “Mappila,” 6: 458.

[219] The composition of *Paradesi* Muslims in coastal Malabar was very cosmopolitan consisting of settlers from Melaka, Bengal, Ternasserim, Pegu, Coromandel, Ceylon, Sumatra, Vijayanagara, Bhatkal, Dhabol, Chaul, Cambay, Gujrat, Hormuz, Mecca, Persia, Arabia Felix (Yemen), Syria, Turkey and Ethopia. Mansel Longworth Dames, trans. *The Book of Duarte Barbosa* (London: The Hakluyt Society, 1921), 2: 74-76; Prange, *Monsoon Islam,* 51, 54.

[220] Prange, *Monsoon Islam,* 237.

[221] W. M Thackston, trans. “Kamaluddin Abdul-Razzaq Samarqandi Mission to Calicut and Vijayanagar” in *A Century of Princes Sources on Timurid History and Art,* ed. W. M Thackston (Massachusetts: Aga Khan Program for Islamic Architecture, 1989), 304.

Kerala as well[222]. The deep connection with the Arab world also resulted in the development of Arabi-Malayalam language among Mappilas and it is still being used in Sunni[223] educational institutions.

The advent of colonial forces in Malabar in the 15th century not only disrupted the thriving business of Muslims but also radically altered their lives forever. The degradation that the Muslim self had undergone under the reign of Portugal is vividly documented in *Tuḥfat al-Mujāhidīn* written by Shaykh Zainuddin Makhdum II in 1583. Makhdum writes:

> "The Portuguese scoffed at the Muslims and held them up to scorn. …obstructed their journey especially ḥajj journeys; plundered their wealth; seized their vehicles; set fire to their houses and mosques; trampled under feet and burned the Holy Qur'an and other religious books; reviled publicly the Prophet (s); defiled and polluted the places of worship;…forced them to bow before the cross and gave money to those who did so;…killed the ḥajj pilgrims and persecuted them with all kinds of cruelties; captured them and kept them bound in heavy chains on their feet or kept them handcuffed dragging them around in the streets and markets to sell them as slaves;…"[224]

The monopoly of Portugal in sea trade devastated the economic subsistence of Muslims and forced them to flee away from the Malabar coast. While *Paradesi* Muslims left to their native lands, majority of Mappilas migrated to the inlands[225]. The mass exodus of *Paradesis* also resulted in the domination of native Mappilas in the composition of Islamic scholars[226]. However the greatest impact of colonialism was the ideological and institutional consolidation of Mappilas into a single community through the anti-colonial struggles[227].

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[222] Some small communities like Labbais, Dakhnis and Shī'ah did not follow *Shāfi'i* School. Kunhali V, "Muslim Communities in Kerala to 1798," PhD diss., (Aligarh Muslim University, 1986), 267; Prange, *Monsoon Islam,* 65. The reformist movements have questioned the unquestioned adherence to *Shāfi'i* School though majority of Muslims in Kerala continue following it.

[223] The word Sunni in the context of Kerala means the traditionalists opposed to Islamic reformism.

[224] Shaykh Zainuddin Makhdum, *Tuḥfat al-Mujāhidīn,* trans. S. Muhammad Husayn Nainar (Kuala Lampur: Islamic Book Trust, 2006), 56-57. *Tuḥfat al-Mujāhidīn* is the earliest written historical work of Kerala by a Keralite.

[225] The economic status of Mappila as a community deteriorated and majority of them ended up being landless labourers, petty traders and fishermen. Roland E. Miller, *Mappila Muslims of Kerala A Study in Islamic Trends* (Delhi: Orient Longman, 1976), 83.

[226] Prange, *Monsoon Islam,* 155.

[227] Ibid, 196-197.

## Context of the Emergence of Islamic Organisations

The socio-economic decline Mappilas had undergone under Portugal reign did not alter considerably during the Mysorean rule of Malabar[228]. Although increased employment opportunities in military and administration[229] and the possession of land for the first time[230] enhanced the living condition of some Mappilas, the new tax policy adversely affected the general wellbeing of the community[231]. Succeeding British rule deployed similar Mysorean state control over land revenue while reversing the land rights to the traditional authority of *Rājās* and *Janmis*[232]. Inevitably this policy created tensions between Mappila tenants who had acquired land under Mysorean rule and the traditional authorities. The period from 1821 to 1921 witnessed fifty one Mappila outbreaks[233] culminating in the Malabar rebellion of 1921[234]. It was in the aftermath of the rebellion, as an outcome of the engagement with the West for more than four centuries, that Islamic organisations were formed in Kerala[235].

The great turmoil Mappilas had gone through impacted their relation with Islam as well. The earliest Islamic educational institution in Malabar, known as *Paḷḷidars,* is centered on the mosques[236]. *Ponnani Jum'ah Masjid Dars,* established in the 16th century by Shaykh Zaunuddin Makhdum I (c.1465- 1522), is the most prominent *Dars* and Muslim scholars known as *Musliyār*

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[228] Here Malabar roughly indicates the northern districts of Kerala.

[229] Francis Buchanan, M.D., *A Journey from Madras through the Countries of Mysore, Canara, and Malabar,* vol. 2 (London: Cadell & Davies, 1807), 550.

[230] Miller, *Mappila Muslims,* 97.

[231] Buchanan, *A Journey from Madras,* 2: 369.

[232] Miller, *Mappila Muslims,* 103.

[233] Ibid, 109.

[234] Malabar rebellion is a heavily contested issue and historians have variedly interpreted its causes. See, E. M. S Namboodiripad, *The National Question in Kerala* (Bombay: People's Publishing House, 1952); A. Sreedhara Menon, *A Survey of Kerala History* (Kottayam: D C Books, 2007); C. A Innes, *Malabar and Anjengo* (Madras: The Superintendent, Government Press, 1908).

[235] Some Islamic organisations were established before the formation of the Kerala state. Since the origin and influence of these organisations span across princely states and British Malabar, the world Kerala is used to represent all regions involved.

[236] The oldest recorded *Dars,* dating back to 13th CE, was located in *Tanur Valiya Kulangara Masjid.* "Tanur's Library of Rare Manuscripts," Fazil Firoos P, accessed July 1, 2021, https://cafedissensusblog.com/2015/12/25/tanurs-library-of-rare-manuscripts/

were brought up from here[237]. The increasing number of Muslims in inlands necessitated the formation of *Ōttupaḷḷis* for imparting primary knowledge of Islam as *Dars* focused more on higher education[238]. Since the Islamic conception of knowledge does not have a distinction between secular and religious knowledge, the *Dars* syllabus imparted all forms of knowledge.[239] Though there were texts, the method of knowledge transmission was a deeply personal process[240] and the title of *Musliyār* was granted to the pupil based on the discretion of the teacher[241]. The educational institutions were subsisted by the community itself since patronages from Muslim kingdoms ceased with the advent of colonialism[242]. The sweeping impoverishment suffered by the community not only affected the proper conduct of these institutions but also filled the attitude of lay Muslims towards the ‘Ulamā with contempt[243]. The *Dars* syllabus also shrunk into the learning of basic *Fiqh, Qur'an* and *Ḥadīth*[244] as a result of the ascendancy of colonial secular knowledge. The situation was exacerbated in the last half of the 19th century by the attack on Islam from Christian missionaries through denigration of the Prophet and other great figures of Islam[245]. It was in this exceedingly vulnerable context, as a defence of Islam, that reformist critique of Islam emerged among the Muslims of Kerala.

> "At first, a condition prevailed in Malabar that allowed the Muslims there to lead a prosperous and comfortable life on the account of the benevolence of their rulers, their time honoured customs and

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[237] Shaheer Mahḷari, *Maqdoom Kudumbam Keralathil* (Kozhikode: Sharafee Publications, 2017), 22.

[238] For further knowledge scholars travelled across Islamic lands particularly Arabia and this helped maintaining connection and transmission of ideas. "Kerala Muslim Matavidyabhyasam: Ādhunikatakk Mumpum Śēṣavum," Jumail P P, accessed June 30, 2021, https://muslimheritage.in/innermore/49.

[239] The belief that the pursuit of all forms of knowledge is a mandatory obligation of the community also facilitated the diversification and growth of scholarship in *Dars.* Shafeeq Hussain Vazhathodi Al-Hudawi and Nizar A C, "The Islamic Educational Tradition in Kerala: How it Practiced the Concept of Knowledge in Islam," (paper presented at Kerala Muslim Heritage Studies History Conference, Kozhikode, December 2013), 1-2, 6-7.

[240] Francis Robinson, "Education," in *The New Cambridge History of Islam Islamic Cultures and Societies to the End of Eighteenth Century,* ed. Robert Irwin (Cambridge: Cambridge University Press, 2010), 4: 505.

[241] Mahḷari, *Maqdoom Kudumbam Keralathil,* 31.

[242] "Kerala Muslim Matavidyabhyasam."; Prange, *Monsoon Islam,* 255.

[243] K. Moidu Moulavi, *Ormakkurippukal,* 2nd ed. (Kozhikode: Islamic Publishing House, 2001), 17-19, 22-26.

[244] Al-Hudawi and A C, "The Islamic Educational Tradition in Kerala," 7.

[245] K.K.M Kareem, *Sayid Sanaulla Makti Tangal* (Biography-Mal), Kerala Islamic Mission, Tirur, 1981, p.11, quoted in Abdul Razak P P, "Colonialism and Community Formation in Malabar: A Study of Muslims of Malabar," PhD diss., (University of Calicut, 2007), 101.

> their kindness. **But, they belittled Allah's blessings, and transgressed and became heedless. So Allah set on them the Portuguese Christians** and He, may He be exalted, abandoned them. They oppressed the Muslims, corrupted them and committed all kinds of ugly and infamous deeds against them, too bad to be described."[246][Emphasis added].

Makhdum's[247] interpretation of the sufferings of Mappilas as a consequence of transgressions from the straight path of God is not a novel conception, rather it is a recurring theme in Abrahamic religions. The crux of modern Islamic reformist thought (Ar., *al-'Iṣlāḥ*) is also structured on this interpretation, i.e., the backwardness and deterioration of Muslim community resulted from their deviation from Oneness of God (Ar., *Tawḥīd*) and eventual association of partners with God (Ar., *Shirk*). Hence purification from religious innovations (Ar., *Bid'ah*) and restoration of fundamental principles of Islam is required not only for welfare of the community but also for being true Muslims. Throughout Islamic history Muslim societies had undergone this process of renewal (Ar., *Tajdīd*)[248]. While the process of renewal may have been prompted by an innate desire of the Muslim self to live up to pure Islam as they perceived, this very act was taking place in a complex network of power relations in which the Muslim self was placed as materially inferior to the colonial Other. Therefore both the reformist critique and traditionalist reaction to it, are shaped by modernity since both of them emerged out of an inevitable encounter with it.

One aspect of modernity that has been instrumental in the formation of the reformist critique was the adoption of printing technology. Print not only disrupted the existing Islamic tradition of deeply personal knowledge transmission process but also shifted authority of interpretation of knowledge from the 'Ulamā to individuals who read the text. This enabled reformist thinkers to override the long historical lineage of the formal religious texts and interpret it according to modern

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246 Makhdum, *Tuḥfat al-Mujāhidīn,* 56.

247 The ideological divisions among 'Ulamā began only in the19th century. Therefore it will be historically inaccurate to categorise Makhdum II into any of these divisions although both reformists and traditionalists claim his lineage.

248 Although in common parlance and some scholars use '*Iṣlāḥ* and *Tajdīd* synonymously, unlike *Tajdīd,* the presupposition of shortcomings in the existing legacies of the knowledge of Islam enables '*Iṣlāḥ* to reassess existing frameworks of knowledge and knowledge based on it, thereby innovating new standards for knowledge assessment and creating novel classifications of knowledge. "Reform (Islah) and Renewal (Tajdid) in Islamic Thought," accessed August 3, 2021, https://www.dar-alifta.org/Foreign/ViewArticle.aspx?ID=1870&CategoryID=3.

circumstances[249]. The reformists' vigorous emphasis on individual's direct relation with the God dismantling all intersessions was an offshoot of their engagement with the print[250]. That's why the social base of Islamic reformism in Kerala, similar to other modern reform movements, was in the initial phase centred on educated urban middle class Muslims[251] who had access to the print.

Earliest reformist response came from Sanaulla Makti Tangal (1847- 1912) both as defence of Islam against the accusations of Christian missionaries and as an internal criticism against traditional 'Ulamā for religious innovations and confinement of Islam in the affairs of afterlife (Ar., *al-Ākhirah*). Through the promotion of modern education, he attempted to heal the general estrangement of the community from mainstream society[252]. The reformist ideas of Tangal were deeply shaped by Rahmatullah Kairanawi Al-Hindi's (1818- 1891) work, *Iẓhār al-Ḥaqq*[253]. Another source of reformism in Kerala was the spread of the writings of Egyptian reformists Rashīd Riḍā (1865- 1935) and 'Abduh (1849- 1905) in the *Al- Manār* magazine. Vakkom Abdul Khader Moulavi (1873- 1932)[254], apart from many other reformist endeavours, established a magazine *Al-Islam* particularly for the propagation of the ideas in *Al- Manār* to the Muslims of Kerala. The critical approach of Riḍā and 'Abduh towards the Islamic tradition of a scholar's adherence to the doctrines of a school of Islamic jurisprudence (Ar., *Taqlīd*)[255] and espousal of independent reasoning of Qur'ān and Ḥadīth (Ar., *Ijtihād*) by both layperson and scholars enabled

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[249] Francis Robinson, "Technology and Religious Change: Islam and the Impact of Print," *Modern Asian Studies* 27, no. 1 (1993): 234- 239.

[250] Francis Robinson, "Islamic Reform and Modernities in,South Asia" in *Islamic Reform in South Asia,* ed. Filippo Osella & Caroline Osella (Delhi: Cambridge University Press, 2013), 30.

[251] Filippo Osella & Caroline Osella, "Islamism and Social Reform in Kerala, South India," in *Islamic Reform in South Asia,* ed. Filippo Osella & Caroline Osella (Delhi: Cambridge University Press, 2013), 145.

[252] P M A Gafur, *Kalavum Kalpadum* (Calicut: Yuvatha Book House, 2014), 73-79.

[253] Ishaqali Kallikkandy, *Islahee Bhoomikayiloode,* vol. 1 (Calicut: Kerala Nadvathul Mujahideen Publishing Wing, 2007), 12.

[254] Besides Riḍā and 'Abduh, Moulavi's reformist thoughts were also influenced by the writings of Imām al-Ġaz(z)ālī (c. 1058- 1111), Ibn Taymīyyah (1263- 1328), Muḥammad ibn 'Abd-al-Wahhāb (1703- 1792), Shāh Walīullāh al-Dehlawī (1703- 1762), Jamāl al- Dīn al-afghānī (1839- 1897) and Makti Tangal. Ibid, 29- 31.

[255] Taqlīd will not be followed in matters of faith (Ar., *'īmān*). M A Jalīl Sakhafi Pullāra, "Ahlussunna; Nistulamī Āśayaprapañcaṁ," *Satyasaraṇiyude Caritra Sākṣyaṁ,* February 2012, 55.

the appropriation of Islam for the demands of modern circumstances[256]. The intellectual lineage of Moulavi from Egyptian reformism played crucial role in the formation of progressive modernist outlook of Islamic reformism in Kerala. Another significant factor that facilitated the emergence of Islamic reformism in Kerala was the establishment of madrasa system of Islamic education by replacing *Ōttupaḷḷis*[257]. Cālilakatt Kuññahammad Hāji (1866- 1919)[258], being the first Keralite educated from an Arabic collage (al- Bāqiyāt al-Ṣāliḥāt, Vellore), introduced a new curriculum and syllabus in Dār al- 'ulūm Madrasa, Vāḻakkad in 1913[259]. While the syllabus endeavored to restore fields of knowledge apart from Islamic jurisprudence, it also incorporated modern education methods[260]. Many reformist leaders of the later period were students of this institution[261].

## Emergence of Islamic Organisations in Kerala

The first Islamic Organisation, Kerala Muslim Aikya Sanghom, was formed as a culmination of the individual efforts of reformists like K. M Maulavi (1886- 1964), E. K Maulavi (1891- 1974), K. M Seethi Sahib (1899- 1961), E. Moidu Maulavi (1886- 1995) et al. in the aftermath of Malabar rebellion in Koṭuṇṇallūr in 1922[262]. One defined objective of the Sanghom was the enlightenment of Kerala Muslims through the elimination of 'un-Islamic practices' among them[263]. In the second conference of Sanghom in 1924, an Islamic religious scholars' organisation named Kerala Jam'iyyat 'Ulamā (KJU), was formed for the restoration of Islam through the integration of

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[256] L R S Lakshmi, *The Malabar Muslims: A Different Perspective* (New Delhi: Cambridge University Press, 2012), 88-89.

[257] *Ōttupaḷḷis* are primary Islamic educational institutions. Often they are situated next to mosques and run by a single teacher.

[258] Both reformist and traditionalist 'Ulamā acknowledge their lineage to Cālilakatt Kuññahammad Hāji.

[259] Gafur, *Kalavum Kalpadum,* 98- 102.

[260] Al-Hudawi and A C, "The Islamic Educational Tradition in Kerala," 7. The revival of earlier mathematics texts in syllabus enabled Hāji and his students to determine accurate direction (Ar., *Qiblah*) towards al-Ka'bah, leading to the first difference of opinion among 'Ulamā. Moulavi, *Ormakkurippukal,* 56-57.

[261] Gafur, *Kalavum Kalpadum,* 98- 102.

[262] Muhammed Rafeeq T, "Development of Islamic Movement in Kerala in Modern Times," PhD diss., (Aligarh Muslim University, 2010), 128; Lakshmi, *The Malabar Muslims*, 94.

[263] Muslim Aikya Sanghom Niyamangal (Constitution of Muslim Aikya Sanghom) published by Aikya Sanghom, 1923, p.3 quoted in Razak P P, "Colonialism and Community Formation in Malabar" 130.

*'Ulamā* into the *'Iṣlāḥ* fold[264]. The organisation was instrumental in the establishment of many Madrasas, schools and Arabic collages for spearheading Islamic reformism in Kerala[265]. Due to political differences among the leadership, in 1934, the Sanghom was dissolved into Muslim Majlis, which later on merged with Indian Union Muslim League in 1936[266]. Since access to KJU was limited to the *'Ulamā*, an organisation, Kerala Nadvathul Mujahideen (KNM), was formed in 1950 as a common platform to coordinate the efforts of the ordinary Kerala Muslim adherents of *'Iṣlāḥ* ideology[267]. While Mujāhids project themselves as pure scripturalists critical of adherence to any particular school of Islamic jurisprudence unlike the majority traditional Sunnis who follow *Shāfi'i* School of Islamic jurisprudence[268], they argue for harmonisation of reason (Ar. *'Aql*) and revelation (Ar. *Naql*) considering the requisites of modern age[269]. They recognise the ideological lineage from a range of scholars like Ibn Taymīyyah (1263- 1328), Muḥammad ibn 'Abd al-Wahhāb al-Tamīmī (1703- 1792), Muḥammad al-Shawkānī (1759- 1839), Jamāl al-Dīn al-Afghānī (1839- 1897), Abduh (1849- 1905) Rashīd Riḍā (1865- 1935) et al[270]. Incorporation of modern concepts of education and progress in Mujāhid reformism has created a perception of Sunni customs as backward among many Muslims and associating with such practices generates anxiety among them as they may get type casted as regressive[271]. Currently KNM is the most influential

[264] *Kerala Muslim Aikya Sanghom,* Second Annual Report, 1924, pp. 40- 41 quoted in Ibid, 131. Being the first Islamic scholars association, Kerala Jam'iyyat 'Ulamā, in its initial phase was comprised of all *'Ulamā* and split away in later years due to ideological differences. E. K Ahmed Kutty, "The Mujahid Movement and Its Role in the Islamic Revival in Kerala," in *Kerala Muslims A Historical Perspective,* ed. Asghar Ali Engineer (Delhi: Ajanta Publications, 1995), 74.

[265] Kutty, "The Mujahid Movement," 74-75.

[266] Disagreement over the interpretation of *Ribā* also accelerated the breakdown of Sanghom. This will be discussed in detail in next chapter. Ashraf Vāṇimēl, "Aikyasangam: Piṟavi, vaḷarcca, vikāsam," *Paitṛkṁ Mujāhid Sṁsthana Sammēḷanṁ*, February 2014, 87.

[267] "Kerala Nadvathul Mujahideen," accessed August 28, 2021, https://knm.org.in/?organization=kerala-naduvathul-mujahideen-ml.

[268] Ceṟiyamuṇṭaṁ Abdul Ḥamīd, "Islāmika Navōtthānattinṟe Ādarśāṭittaṟa," in *Navōtthāna Prasthānṁ Vaḻiyuṁ Pōrāṭṭavuṁ* (Kozhikode: Yuvatha Book House, 2009), 7-13.

[269] Ṣājahān Māṭampaṭṭ, "Muslim Navōtthānṁ Veḷipāṭinṟeyuṁ Buddhiyudeyuṁ Samanvayattilūṭe," in *Navōtthāna Prasthānṁ* (see note 47), 55-56.

[270] P Muḥammad Kuṭṭaśśēri, "*Navōtthāna Pravattanaṅṅaḷ Āgōḷatalattil,*" in *Navōtthāna Prasthānṁ* (see note 47), 14-18.

[271] Osella and Osella, "Islamism and Social Reform in Kerala," 146. In my experience of being born and brought up in a Sunni family, I have observed Sunni Muslims showing great reverence towards their customs. The anxiety

Islamic reformist organisation in Kerala claiming ten percent of followers among Kerala Muslims and their deep connections with West Asian countries like Saudi Arabia, Bahrain and Kuwait provide both ideological legitimisation and financial support for the organisation[272]. The organisation has gone through many splits on the question of *Shirk.* According to Umar Sullami, a leading scholar of Madavoor wing of KNM, every split in the organization happened for political reasons and ideological reasons are presented to cover it up[273]. Due to multiple constraints this thesis is considering only KNM's official faction's interpretation of *Ribā.*

In response to the systematized critique by the reformists, the traditional *'Ulamā* of Kerala in the leadership of Pāṅṅil Ahmadkuṭṭi Musliyār (1888- 1946), Varakkal Mullakkōya Taṅṅaḷ (1840-1932), Muhammad Abdul Bāri Musliyār (1881- 1965), Abdul Khādir Faḷfari (1895- 1944) et al. formed the organisation, Samastha Kerala Jam'eyyat ul-Ulama (SKJU) in 1926[274]. Unlike the reformists, the traditionalists have a larger social base consisting of all sections of Muslims since their leaders were successful in convincing and incorporating the majority of their contemporaries on the formation of the organisation and up till now Samastha continues to be the largest Islamic organisation in Kerala[275].

Diverging completely from reformists, the traditional *'Ulamā* interpreted history from their lens. Although they recognise the common downfall of Muslims under colonialism, the traditionalists view Mujāhid reformists as being corrupted by materialist western ideology and their ideological leaders like Jamāl al-Dīn al-Afghānī, Abduh, Rashīd Riḍā as Masonist spies intended to restructure Islam in line with western reformation[276]. Consequently the traditional *'Ulamā* counter accuse reformists for introducing innovations in Islam. It's interesting to note that, similar to the reformists, the traditionalists are keen to project their strict adherence to scriptures and restrict the

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observed by Osella and Osella might be limited to Muslim who are either sympathisers or followers of reformists organisations.

[272] Ibid, 142, 153.

[273] C P Umar Sullami (Ex-General Secretary of KNM), in discussion with Shahna P, Palakkad, December 2019.

[274] A. K Ismayil Wafa, *Samastha: Varakkal Muthal Kanthapuram Vare* (Calicut: Sensing Books, 2010), 23-25.

[275] M A Abdul Quadir Musliyar, *Samasthayude Charithram* (Kozhikode: Read Press, 2019), 26.

[276] P A Swadiq Faizy Tanoor, *Samasta Caritrattinṟe Nāḷvaḻikaḷ* (Kozhikode: Islamic Sahithya Academy, 2016), 58-64, 86.

Islamic mysticism (Ar., *al-Ttaṣawwuf* or *al-Ṣṣūfiyyah*) within the bounds of Islamic law (Ar., *Sharī'ah*). This is well reflected in Samastha's issuing of resolutions barring its members from engagement with many local Islamic mystical orders (Ar., *Ṭarīqah*) like Korūr Ṭarīqah, Cōr̲r̲ūr Ṭarīqah etc., whom Samastha accused of breaking the confines of Islamic law[277]. Samastha reiterates their commitment to the primary texts even in response to reformist critique of them as fundamentalists and conservatives:

> "Linguistically the word conservative stands for those who view religious laws and principles in their authentic form. A religious fundamentalist is a person who believes in the fundamentals of that religion and advocates for their preservation. The ideal that Samastha envisions is ingrained of these two concepts. Because the primary texts of Islam, Qur'ān and Ḥadīth, teach that there should not be any spatio-temporal change or reform in the fundamental principles of Islam."[278] [My translation.]

Therefore the difference between Sunni traditionalists and Mujāhid reformists lies not in their fidelity to primary scriptures, but in the method of interpretation of these scriptures.

According to traditional *'Ulamā,* it has been established by consensus (Ar., *Ijmā'*) that only Mujtahids[279] have the authority of independent reasoning from the Primary sources (Ar., *Ijtihād*). Therefore adhering to any of the four school of Islamic jurisprudence is mandatory for all Islamic scholars and and *Ijtihād* should be within the limits prescribed by these four schools [280]. The Mujāhids' endorsement for the democratisation of *Ijtihād* led to the rejection of this long existing consensus among the four major Sunni legal schools of orthodoxy regarding mutual recognition of plurality among them[281], and thereby opened possibilities of novel interpretations of primary

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[277]Ibid, 368- 374. The reformists consider existing Islamic mystical orders in Kerala as innovations and therefore denounce them completely. Abdurahman Mangad, ed., *K M Moulaviyude Fathvakal* (Kozhikode: Yuvatha Book House, 2007), 50.

[278] Tanoor, *Samasta*, 591.

[279] Mujatahid is a person who has the authority to exercise independent reasoning from primary sources. Here it indicates the Imāms of four major Schools of Islamic jurisprudence.

[280] Pullāra, "Ahlussunna," 54- 56.

[281] Yossef Rapoport, "Legal Diversity in the Age of *Taqlīd*: The Four Chief *Qadīs* under the Mamluks," *Islamic Law and Society* 10, no. 2 (2003): 213- 221.

texts[282]. The other differences between Mujāhids and Sunnis arise from this difference in their approaches to the interpretation of primary texts[283]. The differences between these organisations are also reflected in their approach towards anti-colonial struggles. While the Mujāhids venerate the leaders of Malabar rebellion[284], Sunnis view their actions exacerbated the torments of the poverty-stricken community[285]. Similarly, diverging from reformists, many traditional *'Ulamā* rejected modern practices like English education[286]. This approach of self-isolation from all aspects of modernity might have emanated from the deep rooted fear of existential threat to the Muslim self, arising out of engagement with the colonial power.

Samastha had gone through few major splits due to both organisational disputes and differing perspectives on Islamic jurisprudence[287]. Discord over the validity of use of microphones for prayer calls and congregations resulted in the first significant split and formation of Kēraḷa Saṁsthāna Jaṁiyyattul Ulama in 1967[288]. The major split in Samastha happened in 1989 over organisational disputes. After that the dissenting A P faction parted away from the official E K faction and formed parallel organisation to Samastha[289]. Currently both these factions are established organisations having their own publishing wings and managing Madrasas, Islamic

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[282] Mujāhids justify this position arguing that they are giving supremacy to primary texts more than the consensus. A Abdussalam Sullami, *Mujāhid Prasthānavuṁ Vimarśakaruṁ,* 3rd ed. (Calicut: Yuvatha Book House, 2004), 73-75, 101-105.

[283] On ground these differences get the expression of Mujāhid denouncement of traditional practices like visiting the tombs of Sufi saints, celebration of Prophet's birthday etc. and their endorsement of practices like entry of women into mosques, use of Malayalam language in Friday congregation, etc.

[284] Gafur, *Kalavum Kalpadum,* 109- 129.

[285] Tanoor, *Samasta,* 65- 68.

[286] Ibid, 601- 605.

[287] Two minor organizations, Jaṁiyyatte Ulamāi Ssunniyya and Akhila Kēraḷa Jaṁiyyattul Ulama, were formed parallel to Samastha in 1947 and 1965 respectively and ceased to exist few years after their formation. Another organization, Dakṣiṇa Kēraḷa Jaṁiyyattul Ulama, was formed autonomously to spread the ideology of Samastha in southern Kerala. Currently, citing lethargy of Dakṣiṇa, Samastha ended collaboration with them and expanding itself to Southern Kerala. Tanoor, *Samasta,* 478-505, 521-530.

[288] Currently Samsthāna is a small organization confined to the regions near to Nadapuram and the organization has comparatively cordial relation with Samastha. Ibid, 505-521.

[289] While the official E K faction accuse A Ps of political interests and lust for power, the A P faction counter accuse E Ks of their softened attitude towards reformists. Ibid, 541-576; Musliyar, *Samasthayude Charithram,* 89- 95, 119-126.

colleges and universities across Kerala and abroad[290]. The thesis is considering these two Samastha organisations' engagement with *Ribā.*

Another reformist organisation, apart from KNM, having considerable influence on Kerala Muslims' is Jamaat-e-Islami Hind (JIH). JIH was initially formed as Jamaat-e-Islami in 1941 by Syed Abul A'la Maudūdī. In the wake of partition in 1948 the organisation got split into Jamaat-e-Islami Hind and Jamaat-e-Islami Pakistan[291]. Unlike Sunni- Mujāhid contention over the approach to Islamic jurisprudence, Maudūdī acknowledged both ways as authentic[292]. Maudūdī permits *Ijtihād* for the purpose of Islamic state but restricts its application only to the scholars having belief in Islamic law, knowledge in *Qur'an, Ḥadīth,* and other sources of Islamic law and mastery over Arabic language[293]. Therefore what distinguishes Maudūdī's thought from others is his legitimisation and endorsement of the establishment of Islamic state by introducing novel interpretations of four key terms, i.e., Ilāh (God), Rabb (Lord), 'ibādah (worship) and Dīn (religion), in Qur'ān. He justified these new interpretations by arguing that the existing traditional Islamic scholarship has lost the true meanings and attached narrow definitions and unclear ideas for these terms[294]. According to Maudūdī the essence of the word 'Ilāh' is 'authority' encompassing both material and transcendental realms and founding on this principle, Qur'ān categorically rejects all authority other than Allah as void.

Consequently, any human abiding to anything or anyone including his or her own self without the validation from Allah is *Shirk*[295]. Similarly, the word 'Rabb' is expressed in the Qur'ān as the

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[290] Currently the official wing of Samastha is running 10298 Madrasas across Kerala, Andaman Nicobar Islands, Tamil Nadu, Lakshadweep, Maharashtra, Malaysia, UAE, Bahrain, Kuwait, Saudi Arabia, Qatar and Oman. "SKIMV Board," accessed September 17, 2021, https://samastha.info/142.

[291] Muhammed Karakunnu, *Jamaat-e-Islami Laghuparicayaṁ,* 12th ed. (Kozhikode: Islamic Publishing House, 2016), 51- 56.

[292] Abul A'la Maududi, *Islam Mataṁ,* trans. V. P Muhammed Ali, 12th ed. (Kozhikode: Islamic Publishing House, 2003), 99- 101.

[293] Seyyed Vali Reza Nasr, *Mawdudi and the Making of Islamic Revivalism* (New York: Oxford University Press, 1996), 107.

[294] According to Maududi, the meaning of these terms in traditional scholarship were: Ilāh as idols or gods, Rabb as someone who nurtures and look after another and facilitates the worldly necessities, 'ibādah as acts of specific rituals of worship, and Dīn as religion or belief in certain principles. Abul A'la Maududi, *Four Key Concepts of the Qur'ān,* ed. And trans. Tarik Jan (Leicestershire: Islamic Foundation, 2007), 3.

[295] Ibid, 6- 7.

absolute sovereign over all creation of the universe and everyone is subject to the supreme law of God, hence compartmentalising or dividing the sovereignty of Allah is denial of truth.[296] The word ‘ibādah’ has been attached with three meanings, i.e., ‘worship, bondage, or submission’ and the Qur’ān unequivocally declares that the only entity worthy of ‘ibādah’ is Allah. Thus limiting the word ‘ibādah’ will lead to limiting the Da‘wah[297], eventually corrupting the faith (Ar., *'īmān*) of Muslims[298]. Finally interpreting the word ‘Dīn’, Maudūdī states:

> “…a whole way of life in which a person gives his submission and obedience to someone whom he regards as having the ultimate authority, shapes his conduct according to the bounds and laws and rules prescribed by that being, looks to him for recognition honor, and reward for loyal service, and fears the disgrace or punishment that could follow any lack on his part… **The word ‘state’ as employed in our own days does, to some extent, approximate to the sense, but even this word lacks the far wider connotation which would bring it on a par with the word Deen.”**[299] [Emphasis added].

Based on this interpretation, Maudūdī proclaims that Muslims are bound to submit to the state established on Islamic law (Ar., *Sharī‘ah*), likewise it will be sin upon Muslims to obey a state if it is not based on Islamic law[300]. This radically new interpretation of Islam as state was happening in the context of a colonial state with an all-encompassing interventionist role in shaping the lives of Muslims and Maudūdī was clearly conscious of this[301].

The ideology of Maudūdī was familiar to Kerala Muslims much before the formation of Jamaat-e-Islami through the spread of Tarjumān-ul-Qur’ān and founding on its principles V. P Muhammadali Hāji (1912- 1959), C. M Moytīn Kuṭṭi, Parampil Kuññalavi, V. P Kuññahammad

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[296] Ibid, 21- 22.

[297] Generally Da‘wah means the act of inviting fellow humans to Islam.

[298] Ibid, 26- 27.

[299] Ibid, 29.

[300] Ibid, 27.

[301] Theorizing on state, Maududi wrote: “The conceptualization of the state by the nineteenth-century scholars of politics is now utterly outdated…Now the state’s arena has almost become as all-encompassing as that of religion. Now it also decides what you are to wear or what not to wear; So, the state has not left even the most peripheral issues of life independent of its ultimate right to intervene.” (Tarjuman, March 1938: 5), quoted in Irfan Ahmad, “Genealogy of the Islamic state: reflections on Maududi’s political thought and Islamism,” *Journal of the Royal Anthropological Institute* 15, no. 1 (2009): 154- 156.

et. al. formed an organisation, Jamāattul Mustarśidīn, in 1946 and it was converted into JIH in 1948[302]. From 1960s onwards JIH reversed its initial boycott of electoral politics[303]. They justified this move arguing that although the existing political system in India is denying the sovereignty of Allah[304], if the intention of engaging with it is to establish an Islamic state and if there is a possibility to achieve that, then engaging with electoral politics will not be *Shirk*[305]. Rejection of JIH's earlier stance by majority of Muslims, according to Irfan Ahmad, was the crucial factor of this backtracking[306]. Sunnis denounce JIH as it restricts the understanding of Islam in terms of state and government[307] while Mujāhids reject JIH since the primary task is purification of human heart than establishing Islamic state[308]. Nonetheless JIH perceives itself as the only organisation functioning for the complete establishment of Islam (Ar., *Iqāmat Dīn*) and other Islamic organisations as auxiliaries aiding that purpose[309]. Similar to other organisations, JIH, Kerala has its own publications, educational institutions, and many other social welfare institutions like Ideal Relief Wing (IRF), Alternative Investment and Credit Limited (AICL), etc.[310]. Unlike KNM and Samastha, JIH has never gone through an internal split.

All these organisations are attempting to represent and uphold Islam that they believe as the truth. Often the conversations and questions Muslims engage in are intra-religious in nature than about Islam's relation with the other religions[311]. These conversations are not confined to primary

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302 Muhammed Karakunnu, *Islāmika Prasthānaṁ Munnil Naṭannavar,* 2nd ed. (Kozhikode: Islamic Publishing House, 2009), 19, 23, 27.

303 Boycotting electoral politics was part of larger distancing from all vital structures of Indian political system like Army, Judiciary, Parliament, Banks, Universities, etc.

304 For Maududi, adherence to Indian political system is *Ṭāghūt* or worship other than Allah.

305 Muhammed Karakunnu, *Mukhāmukhaṁ,* 2nd ed. (Kozhikode: Islamic Publishing House, 2000), 129- 137.

306 Irfan Ahmad, "Theorizing Islamism and Democracy: Jamaat-e-Islami in India," *Citizenship Studies* 16, no. 7 (2012): 895.

307 Tanoor, *Samasta,* 317- 322.

308 Sullami, *Mujāhid Prasthānavuṁ Vimarśakaruṁ*, 138- 140. The emphasis on conscious examination and purification of Muslim self was not a novel aspect introduced to Islam in modernity, but it became widespread by the reformists' adherence to it. Robinson, "Islamic Reform and Modernities in South Asia," 39.

309 Karakunnu, *Jamaat-e-Islami,* 72- 79, 89- 90.

310 Ibid, 118- 124.

311 Arshad Alam, "The Enemy within: Madrasa and Muslim Identity in North India," *Modern Asian Studies* 42, no. 2/3 (2008): 624.

scriptures for deriving validation, rather depend on varied aspects like tradition, current practices, ‘pragmatic and aesthetic-affectual consideration’ and enigmatic or explicit nature of God’s commands[312]. The distinctive approaches of interpreting the fundamental texts of Islam followed by these organisation are indeed different responses arose within the Muslim community to address the perplexity Islam faced in its encounter with modernity. In the formative years of these organisations, Mujāhids attempted to reconcile with modern reality by directly engaging with primary scriptures of Islam while breaking away from long existed consensus among Sunni scholars to adhere to any of the four schools of Islamic jurisprudence. Though Sunnis persistence to follow the existing method of interpreting the scriptures may appear as unaffected by colonial modernity, a close observation into many of their legal rulings on novel practices of colonialism like discouraging of english education, will reveal that they chose an isolationist approach to safeguard Islam from a radically altered reality imposed upon them by colonialism. It’s very interesting to note that Mujāhids endorsement of progressive ideals of modernity was coupled with their antagonistic relation with colonial powers unlike Sunnis, who complied with the colonial rule while staying away from modern practices. Notwithstanding the role of the leadership of these organisations, the socio-economic background of both leaders and members of these organisations has a crucial role in shaping their approached towards modernity and colonial power. While the majority of Islamic reformists in Kerala were economically well off and received modern education, majority of masses who followed traditionalism were at the margins of socio-economic hierarchy of 20th century Kerala society. Their isolationist approach might be due to the experience of colonial power around four centuries has instilled deep rooted fear of colonial other within them. This might have led to a conviction that Islam cannot sustain in its authentic form if Muslims engage with the technologies introduced by colonisers. Therefore difference in the experience of colonialism by traditionalists and reformists is closely connected to the difference in their approach towards colonialism. Similarly, the centrality of acquiring state power in Jamaat’s reading is a direct response to the encroachment into all aspects of life by the colonial state.

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[312] Along with rationally calculated arguments, the debates between traditionalists and reformists rhetorically used rhymes, satires, poems etc. to substantiate their arguments. Caroline Osella, “Debating Shirk in Keralam, South India: Monotheism between Tradition, Text and Performance,” *Open Library of Humanities* 1, no.1 (2015): 16.

Contrast to the early contestations and debates among the organisations, presently the theological differences have been routinized[313] and they collaborate on common issues concerning Muslim identity[314]. However this doesn't mean that differences among the have crystallised, rather that they are continuously evolving through interactions both among and outside of these organisations.

[313] Osella and Osella, "Islamism and Social Reform in Kerala," 158.

[314] "Muslims unite for huge anti-CAA rally," *The Times of India*, January 2, 2020, https://timesofindia.indiatimes.com/city/kochi/muslims-unite-for-huge-anti-caa-rally/articleshow/73067480.cms.

Chapter 3

# Islamic Scholars' Engagement with *Ribā* in Kerala

> "After some time, Muslims began to settle down there (Calicut). Traders and craftsmen flocked there from various regions. Thus Calicut was transformed into a big city, where, with prospering trade and job opportunities, various kinds of people, Muslims as well as unbelievers, collected"[315]

The existence of flourishing cosmopolitan commerce prior to the advent of colonialism is well recorded in the chronicles of Malabar's history. However, what is striking about this flourishing precolonial Indian ocean trade for his thesis is that the dominant form of capital generation for business, unlike the mainstream way of financing through interest bearing loans, was based on partnership contracts[316]. One of the earliest existing juridical texts engaging with *ribā* from Malabar, '*Fatḥ al-Mu'īn',* the sixteenth century work of Shaykh Zainuddin Makhdum II (1531-1583), extensively engages with the rules of partnership contracts, trusteeship, debt, security of debt, etc., and its reading of *ribā* is in consonance with other major texts of *Shāfiʿi madhhab*[317]. This chapter attempts to explore the discourse on *ribā* in Kerala from colonial times to the present.

## Early Contestations on the Interpretation of *Ribā*[318]

The first contention on *ribā* in Kerala occurred with the publication of '*Risālatun fī al-Banki'* of K. M Maulavi in 1929. K.M Moulavi, being the most influential Islamic reformist leader and the

315 Shaykh Zainuddin Makhdum, *Tuḥfat al-Mujāhidīn,* trans. S. Muhammad Husayn Nainar (Kuala Lampur: Islamic Book Trust, 2006), 34.

316 Shelomo Dov Goitein and Mordechai Akiva Friedman, *India Traders of the Middle Ages Documents from the Cairo Geniza: India Book, Part One* (Leiden: Koninklijke Brill NV, 2007), 251, 574; Abraham L. Udovitch, *Partnership and Profit in Medieval Islam* (New Jersey: Princeton University Press, 1970), 35, 174, 257-258. The general contracts were *Qirāḍ, Muqāraḍa* and *Muḍārabah* and crucial factor for its conduct was 'trust'. Ibid, 203-204.

317 Shaykh Zainuddin Makhdum, *Fatḥ al-Mu'īn Ashaya Samgraham*, ed. & tr. V. Abdul Majeed Faizi and et. al. (Calicut: Poomkavanam Publications, 2017), 307-311, 325-362. *Fatḥ al-Mu'īn* is one of the widely used juridical work of *Shāfiʿi madhhab* in south and south-east Asian region.

318 Inability to access other Islamic juridical texts from Malabar contemporaneous to *Fatḥ al-Mu'īn* restricts the exploration of differences in the interpretation of *ribā.* However, as elucidated in the first chapter, the differences among Islamic scholars in premodern period were very minimal compared to the radical reinterpretations in modern period.

founding member of Kerala Muslim Aikya Sanghom and Kerala Nadvathul Mujahideen, published this work to legitimise interest based banking in Islam. Relying solely on the earliest Qur'ānic verse (3:130) on *ribā*, "O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful"[319], K. M Maulavi restricted the Qur'ānic prohibition of *ribā* into *ribā al-nasi`ah*, which in turn he defined as *ribā al-jāhilīyyah*. In the modern banking system this, according to K. M Maulavi, is the interest beyond fifty percent of the principal[320]. He clubbed all other forms of *ribā* as *ribā al-faḍl*. Although he recognised *ribā al-faḍl* as sin, its severity is less compared to *ribā al-nasi`ah*, since the reason for the prohibition of *ribā al-faḍl* is that it leads to *ribā al-nasi`ah*[321]. Following this classification of *ribā,* K. M Maulavi argued that an act prohibited because it is an inherent evil will be justified only in emergency circumstances unlike the acts that are banned since it engenders inherent sin and its prohibition can be lifted for need fulfilment[322]. This line of argument of K. M Maulavi is a clear replication of Rashīd Riḍā's interpretation of *ribā*[323]. Moving ahead of Riḍā', K. M Maulavi contends that *ribā* cannot be justified either to satisfy needs or in necessary circumstances, since there are other ways to overcome *ribā* proscription and he invents a 'legalistic trickery' (Ar., *Ḥīlah*)[324] for this purpose[325]. He bases it on the following *Ḥadīth* narrated by Abu Hurairah (603- 678):

> "The Prophet (ﷺ) owed somebody a camel of a certain age. When he came to demand it back, the Prophet (ﷺ) said (to some people), "Give him (his due)." When the people searched for a camel of that age, they found none, but found a camel one year older. The Prophet (ﷺ) said, "Give (it to) him." On that, the man remarked, "You have given my right in full. May Allah give you in full."

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[319] *The Quran,* tr. Saheeh International (1997).

[320] K M Maulavi, *Risālatun fī al-Banki* (Eriyad: Muhyadheen Press, 1929), 6-8, 10, 36.

[321] Ibid. 8-13, 25.

[322] Ibid, 26.

[323] Although K. M Maulavi is not directly citing Riḍā's writings, the *Risāla* contains references to debates on bank interest in Egypt. Ibid, 27-32. It has been stated in a biography of K. M Maulavi that, inspired by the writings of Riḍā, K.M wrote *Risālatun fī al-Banki.* K. K Muhammed Abdul Kareem, *K. M Moulavi Sahib,* 2nd ed. (Abu Dhabi: Indian Islahi Centre, 2012), 126.

[324] *Ḥīlah* is the singular of the word *Ḥiyal* mentioned in chapter 1.

[325] Maulavi, *Risālatun fī al-Banki*, 14.

> The Prophet (ﷺ) said, **“The best amongst you is the one who pays the rights of others generously.”**[326] [Emphasis added]

K. M Maulavi argued that if the debtor gives back excess amount of the principal either voluntarily or by making a vow[327] then the excess will not be considered as *ribā* rather vowing is allowed and if a person makes a vow then it is mandatory upon that individual to keep that word[328]. He terms this as ‘*Ḥīlah al-Ribā’* (trickery on *ribā*) and justifies it since its application has been ratified by both Imām Abū Ḥanīfa (699-767) and Imām Shāfiʿi (767-820) and it is endorsed in *Fatḥ al-Muʿīn* of Zainuddin Makhdum[329]. K. M Maulavi also interprets the command of Prophet Muhammad (ﷺ) [330] to sell cheap quality dates for market price and then buy high quality dates with that money as an evident example of ‘*Ḥīlah al-Ribā’*[331].

Founding on this concept, K. M Maulavi drafts the framework of a Muslim bank. The debtors have to vow particular amount other than loan and this excess will not be considered as interest but only as ‘*Ḥīlah al-Ribā’*[332]. If the debtor defaults the payment, then he or she has to vow a larger amount and this surplus should not exceed fifty per cent of the principal since exceeding fifty per cent will become categorically forbidden *ribā al-nasi`ah* [333]. Though this surpasses Islamic interdiction of *ribā,* K. M Maulavi recognises inequality in the transfer of wealth from debtor to the bank. To overcome this, he restricts loan to the shareholders of the bank who have right over bank’s profit. Also a part of the profit will be assigned for Muslim community welfare fund[334]. Concerning the

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[326] Muḥammad ibn Ismāʿīl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī,* Book 40, Ḥadīth 6.

[327] The Malayalam term used for vowing is ‘nērcca’. In Islamic legal terminology it means a matured intelligent and sensible Muslim obligating himself or herself a non-compulsory virtuous act which is either *Sunnah* (an act that will be rewarded for its fulfilment but will not be punished for its failure) or *Farḍ al-kifāyah* (collective obligation of community in which individual will not be penalized for his or her negligence of it in so far as the community performs the duty). Makhdum, *Tuḥfat*, 294.

[328] Maulavi, *Risālatun fī al-Banki*, 14.

[329] Ibid, 16. It’s quite intriguing that, unlike other Arabic citations in the work, K. M Maulavi has not provided either a translation or an elucidation of the quotation from *Fatḥ al-Muʿīn*.

[330] See Chapter 1, page no. 43.

[331] Maulavi, *Risālatun fī al-Banki*, 16-17.

[332] Ibid, 33-34.

[333] Ibid, 36.

[334] Ibid, 34.

issue of collecting interest from non-Muslim debtors, K. M Maulavi proposes to follow the ruling of *Ḥanafi madhhab* that Muslims can collect *ribā* from non-muslims in regions that do not have peace treaty with Muslims (Ar., *Dār al-Ḥarb*)[335]. Here without adequately exploring criteria for constitution of a land into *Dār al-Ḥarb* in *Ḥanafi madhhab* and ignoring the history of India K. M Maulavi jumps to the conclusion that India belongs to *Dār al-Ḥarb.*

Throughout the text K. M Maulavi explicitly states his intention behind legal innovations for normalisation of *ribā*, i.e., the economic prosperity of Muslim community. In his view, the material impoverishment of Muslims coupled with the inevitability of financial capital for both agriculture and business alike necessitates Muslims to depend on banks owned by non-Muslims. The non-Muslim banks, particularly of Christians, are seizing the wealth generated by the labour of Muslims and deploying a portion of bank's profit for anti-Muslim activities of the church. Therefore establishment of a Muslim bank or co-operative society is essential to cater to the financial needs of Muslims and interest is an indispensable element for the functioning of such institutions. But interest, in its every manifestation, is banned in Islam prompting accusations from both non-Muslims and some Muslim reformists that Islam is incompatible with modernity[336]. K. M Maulavi states:

> "Islam befits any time, any space and any community. It counsels only easiness not strain… Currently Muslim community has deteriorated in education and economic wellbeing. Consequently it has transformed into a community without life. This state of Muslim community has created hatred, instead of respect, towards Islam in others' mind. Some Muslim reformers who cannot see the beautiful face of Islam consider it as a trouble. We have reached a situation in which the dangerous disease that affected Turkey may affect Kerala as well."[337] [My Translation]

The panacea K. M Maulavi invents for this is effective use of loopholes within *Sharī'ah* to adapt Islam to the demands of modern times. By embracing the strategy of dominant other to overcome the economic deterioration of the Muslim self, K. M Maulavi prioritised the economic ideology over a transcendental authority's interdictions on material affairs of human beings.

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335 Ibid, 35.

336 Ibid, 2, 4-5.

337 Ibid, 37.

K.M Maulavi's radical reinterpretation of *ribā* invited response across '*Ulamā'* in Kerala. In 1929 itself, K. C Muhyidheen Kutti Maulavi Kunnappally (K.C Maulavi)[338], a teacher in Kochi mosque, wrote a text '*Ṣārimu al-Bunk fī Risālati al-Banki'* as a detailed critique of '*Risālatun fī al-Banki'*. Referring to Imām al-Subkī (1284-1355),[339] K. C Maulavi states that, conditioning any benefit in a financial transaction is great sin by consensus (Ar., *Ijmā*)[340] and K. M Maulavi has turned down the scholars of Islamic jurisprudence (Ar., *Fuqahā*) through his restricted definition of *ribā*[341]. Throughout the text K. C Maulavi reiterates that all forms of interest are completely forbidden by Qur'ān, *Ḥadīth* and *Ijmā*[342]. In Islam, an act prohibited on the basis of *Naṣṣ*, i.e., a law based on explicit statement or statements from Qur'ān and *Ḥadīth,* will never be consented through reasoning (Ar., *Ijtihād*)[343]. Rejecting K. M Maulavi's interpretation of Prophet's command to sell cheap quality dates and then buy high quality dates with that money as an example of '*Ḥīlah al-Ribā',* K. C Maulavi contends that the only way Prophet (ﷺ) suggests to be out of prohibited *ribā* is through just and permissible 'commerce'[344]. Quoting Imām al-Subkī, K. C Maulavi points out that, the intention behind the prohibition of barter transaction of unequal quantity of dates and suggestion for transaction through money is to ensure equitable transaction, not extraction of excess[345].Therefore the 'trickery' is *Makrūh*, i.e., not forbidden but abstinence from it will be rewarded, and this concession is restricted to this world (Ar., *Dunyā*) and will be judged according to intentions in the hereafter (Ar., *al-Ākhirah*)[346]. K. M Maulavi, without understanding this aspect

[338] I couldn't find out the organisation that K. C Maulavi was part of. The general content of his work is critical of Islamic reformism.

[339] Imām Subkī is one of the greatest scholars in *Shāfi'i madhhab*.

[340] K. C Muhyidheen Kutti Maulavi, *Ṣārimu al-Bunk fī Risālati al-Banki* (Ponnani: Muḥkkī al-Gharāib Press, 1929), 23.

[341] Ibid, 39.

[342] Ibid, 3, 13, 39, 40. K. C Maulavi also points out the *Ḥadīth* of *Umar ibn Khattab* (See Chapter 1, Footnote 1) in which he commands to abandon both *ribā* and anything doubtful as *ribā* as clear evidence of complete prohibition of all forms of *ribā*. Ibid, 38.

[343] Ibid, 29, 49. After elaborating many reasons for the prohibition of *ribā*, K. C Maulavi states that acts forbidden by *naṣṣ*, even if the reasons are unknown, it is mandatory for Muslims to believe in it. Ibid, 32-33.

[344] Ibid, 5.

[345] Ibid, 22.

[346] Ibid, 18, 23-24.

of ‘intention’, misinterpreted the statements of Imām Abū Ḥanīfa and Imām Shāfiʿi[347]. Similar ‘trickeries’ were invented in the past as well to override *Zakāt*, i.e., compulsory almsgiving to purify wealth, and Imām al-Ghazzālī (c.1058- 1111) has classified all such ‘trickeries’ into *Fiqh al-Ḍḍārril*, i.e., harming public interest[348]. K. C Maulavi also alludes to the story of *Banī Isrā'īl* in which the wrath of Allāh struck upon them for their indulgence in ‘trickeries’[349]. Therefore conditioning any form of excess to the lender either voluntarily or as part of a vow is indeed interest[350].

Besides this, K. C Maulavi clarifies that Ibn Ḥajar al-‘asqalānī’s (1372-1449)[351] concession on *ribā* prohibition is strictly restricted to individuals who have no possibility for basic life sustenance like food except by receiving debt conditioned on giving *ribā,* and will not apply on taking *ribā* by lenders or a bank[352]. Moreover he discarded K. M Maulavi’s claim that collecting *ribā* from non-Muslims in *Dār al-Ḥarb* is permissible. Citing al-Shaykh Sulaymān al-Kurdī[353] (1714- 1780), K. C Maulavi shows that Muslims have no right to extract *ribā* from non-Muslims both in *Dār al-Islam* and in *Dār al-Ḥarb*[354] and even in *Ḥanafi madhhab* only one section of scholars have justified this extraction[355]. He also problematizes K. M Maulavi’s classification of India in *Dār al-Ḥarb* because if a land came under Muslim rule at any point in history, then that land will be considered as *Dār al-Islam*[356]. Antithetical to K. M Maulavi’s interpretation of Qur’ānic verse, “Allah does not charge a soul except [with that within] its capacity” (The Qur’ān 2: 286)[357] as an

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[347] Ibid, 28.

[348] Ibid, 26.

[349] Ibid.

[350] Ibid, 17.

[351] Ibn Ḥajar al-‘asqalānī is a polymath and foremost scholar of *Shāfiʿi madhhab.*

[352] Ibid, 43.

[353] Sulaymān al-Kurdī was great scholar of *Shāfiʿi madhhab* and an Islamic jurist of Ottoman Empire.

[354] Ibid, 43.

[355] Ibid, 46.

[356] Ibid, 44-45.

[357] *The Quran,* tr. Saheeh International (1997).

excuse for *Ḥīlah al-Ribā,* K. C Maulavi views conformity to *ribā* proscription as easy. K. C Maulavi states:

> "After recognising *ribā al- nasi`ah, ribā al-faḍl*, and *ribā al-yad* as forbidden in Islam, the manager of *al-Iṣlāḥ* is attempting its legitimisation through the application of dirty tricks, and it seems like he is forging a new religion by abandoning Islam… The statements that *ribā* will be legitimate and one can escape from its humiliation in this world and the torments of hellfire in the hereafter are baseless and made by hypocrites (Ar., *Munāfiq*), fools and some reformers smitten by the poisonous air of this world."[358] [My translation]

Neither economic impoverishment of the Muslim community nor disbelievers (Ar., *Kāfir*) robbing the community's wealth, according to K.C Maulavi, are adequate reasons for the justification of *ribā* and the community completely enmeshed in *ribā* cannot flee away from its ill effects by legalising *ribā*[359]. Plundering the property of fellow Muslims by banking machinery, instead of redeeming the economic hardship, will wreck the solidarity and brotherhood of the community[360]. Like other fundamentals of Islam (Ar., *Arkān al-Islām*), it is mandatory upon Muslims to provide loan to fellow Muslim in need[361]. In the view of K. C Maulavi, instead of attempting to unearth the real causes of community's destitution, K. M Maulavi is deploying 'trickery' to resolve the crisis[362].

According to K. C Maulavi, the economic deterioration of Muslims is due to their deviation from Islam by inventing 'trickeries'[363]. Islam, along with strict prohibition of *ribā,* has also taught ways for the economic prosperity of the Muslim world[364]. Referring to the Islamic history, K. C Maulavi points out that the form of bank K. M Maulavi suggests for the economic prosperity of Muslims

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358 Ibid, 4, 25. Instead of using his own name, K. M Maulavi referred himself as manager of *al-Iṣlāḥ* in *Risālatun fī al-Banki.*

359 Ibid, 7-8.

360 Ibid.

361 Ibid, 8.

362 Ibid, 3.

363 Ibid, 5.

364 Ibid, 7.

never existed right from the inception of Islam[365]. K. C Maulavi also accuses K. M Maulavi of blind imitation and propagation of reforms in Europe without considering its vicious impact on Islam[366]. Over and above this, altering the commandments of Islam will disrupt its existence as a distinct religion[367]. Therefore K. C Maulavi ascertains that any true believers of Islam who do not perceive heaven and hell as mere analytical categories for contemplation will not consider *Ḥīlah al-Ribā* as sanctioned in Islam[368]. Finally, citing Prophet's prophecy on end times, "There will be in the end of time charlatan liars coming to you with narrations that [neither] you nor your fathers heard, so beware of them lest they misguide you and cause you tribulations*"*[369], K. C Maulavi discerns the invention of K. M Maulavi as clear manifestation of the prophecy. It seems that along with Islamic juridical reasoning and citation of Islamic scholars, continuous adherence to a sphere beyond material realm is crucial for the validation of K. C Maulavi's critique of K. M Maulavi.

More than scholarly critiques, K. M Maulavi's legitimisation of interest had repercussions both within and outside Aikya Sanghom. The 6th annual conference of Samastha Kerala Jam'eyyat ul-Ulama passed a resolution against '*Risālatun fī al-Banki*'[370]. Within the Sanghom, Mohammed Abdurahiman Sahib (1898- 1945)[371] vehemently opposed K. M Maulavi's proposal for a bank through a series of articles in his magazine *Al- Amīn*[372]. Sahib's opposition not only stirred factions within the organisation, but also generated dissent among majority of Muslims against the bank[373]. Consequent withdrawal of further investment in bank by shareholders resulted in the demise of the

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365 Ibid, 41.

366 Ibid, 2.

367 Ibid, 12.

368 Ibid, 27.

369 Muslim ibn al-Ḥajjāj al-Naysaburi, *al-Muqadimah*, Ḥadīth 7.

370 Samastha Kerala Jam'eyyat ul-Ulama, *Ārām Vārṣika Sammēḷana Report* (Feroke, March 5, 1993), 23-25.

371 Mohammed Abdurahiman Sahib was an Indian freedom fighter and president of Kerala Pradesh Congress Committee (Malabar) in 1939. He was also part of Muslim reform movement in Kerala.

372 Kareem, *K. M Moulavi Sahib*, 125.

373 M. A Rāṣid, *Muhammad Abdurahmān Sāhib,* 71 quoted in P A Swadiq Faizy Tanoor, *Samasta Caritrattinṟe Nāḷvaḻikaḷ* (Kozhikode: Islamic Sahithya Academy, 2016), 122.

bank in its nascent form itself[374]. The factional differences ultimately resulted in the breakdown of the organisation in 1934[375].

## Abū'l A'lā Maudūdī and the Turn of *Ribā* Discourse towards Islamic Economic System

Around the same time that these controversies were going on in Kerala, Abū'l A'lā Maudūdī (1903-1979) formulated systematic analysis of the question of *ribā*[376]. Basing on Qur'ānic verses, Maudūdī comprehends the meaning of the word *ribā* as any form of excess over the principal amount. The excess wealth prohibited by Islam, *al-ribā*[377], is distinct from other forms of excess like the excess earned through commerce [378]. On the definition of *al-ribā al-faḍl* and *ribā al-nasi`ah,* Maudūdī followed the existing juridical classification of *Ḥanafi madhhab*[379].The authority for the prohibition of *ribā al-nasi`ah* is derived from the Qur'ān itself and the Muslim community (Ar., *Ummah*) concurs upon this interdiction in contrast to *ribā al-faḍl* in which the injunctions are based on *Ḥadīths* and the jurists have difference of opinion on the causes and the scope of *ribā al-faḍl*[380].

Tracing the evolution of *ribā* proscription, Maudūdī states that the reason behind the prohibition of *ribā al-faḍl* is to thwart all possibilities of *ribā al-nasi`ah.* Although this line of thought has been well employed in Islamic modernist circle for the legalisation of *ribā al-faḍl,* Maudūdī, citing

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[374] Ibid.

[375] Ibid; Ashraf Vāṇimēl, "Aikyasangam: Piṟavi, vaḷarcca, vikāsam," *Paitṛkṁ Mujāhid Sṁsthana Sammēḷanṁ,* February 2014, 87.

[376] Maudūdī has written many articles on *ribā* from 1936 to 1960 and a compiled version of it, *Sūd,* was published in 1960. Other works of Maudūdī like, *Islam and Modern Economic Theories, First Principles of Islamic Economics* have also engaged with the question of interest in Islam. Since the ideas in these works are not different from the work, *Sūd* (Interest), the thesis considers only this work for the study.

[377] '*Al'* is an adjective in Arabic language to denote the definitiveness of a noun, similar to 'the' in English.

[378] Abū'l A'lā Maudūdī, *Interest,* trans. Maaz Amjad & Arshad Shaikh (New Delhi: Markazi Maktaba Islami Publishers, 2015), 102.

[379] Ibid, 113-114. The transaction being hand to hand will not lead to *ribā al-faḍl,* rather it is a requirement to get away from *ribā al-faḍl.*

[380] Ibid, 113-119, 123-124.

the *Ḥadīth* of Umar ibn al-Khaṭṭāb (c.583 - 644)[381], points out that abandoning acts surreptitiously like *ribā* is essential to protect the Islamic way of life[382]. He explicates this by formulating rationale on the basis of *Ḥadīths* pertaining to *ribā al-faḍl*, i.e., firstly, daily exchange of similar commodities in varying values or charging excess on the exchange of equal value of foreign currencies, may burgeon selfishness, eventually ending up in legitimisation of interest[383], and secondly, to prevent the possibility of relative gain or loss to one party in delayed transaction due to the volatility of market prices, hand-to-hand transaction is stipulated as a mandatory requisite to overcome *ribā al-faḍl*[384]. Regarding *ribā al-nasi`ah,* Maudūdī identified three aspects, i.e., an excess over the principal amount, fixation of the excess against the time duration of debt, and inclusion of these as conditions of debt, as the constituting characteristics of it[385]. Through this definition, he incorporated all forms of interest within the purview of *ribā al-nasi`ah.*

Maudūdī's intervention in *ribā* discourse happened in the context of the Muslim engagement with colonial modernity, construction of novel interpretations of *ribā* and the ambiguities arising out of those interpretations. According to some opinion, since debtor has the right to consent to the agreements in bank loan unlike *ribā* in which the stipulations are imposed by the lender, bank interest is not comparable with *ribā*. Maudūdī refuted this by pointing out that consent is not an attribute in the definition *ribā*[386]. Another major contention was on the validity of commercial loans. Indicating the difference between consumer and commercial loans, Syed Yaqoob Shah[387] regarded commercial loan as a unique invention of modern finance[388]. Maudūdī refuted this view by relating an aspect of commercial loan, i.e., extraction beyond the principal, to the essence of

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[381] See chapter 1, footnote 1.

[382] Maudūdī, *Interest*, 113-114, 122-123.

[383] It's interesting to note that, Maudūdī prioritised the values of human psyche over the economic circumstances as the motivating factor for interest.

[384] Maudūdī has sanctioned the transaction of same materials in case of structural change to address the issue of value addition in the product. For example, it is legitimate to transfer unequal quantity of cotton and fabric made of cotton since the structure of cotton changes in the process of transforming cotton to fabric. Ibid, 119- 122.

[385] Ibid, 105.

[386] Ibid, 212, 215.

[387] Yaqoob Shah was an auditor general of government of Pakistan. The interchange between Shah and Maudūdī occurred after the publication of 'interest'.

[388] Ibid, 170, 181.

Qur'ānic verses on *ribā*[389]. Qur'ān, according to Maudūdī[390], is an eternal text revealed for humans till the Day of Judgement (Ar., *Yawm al-Qiyāmah*)[391]. Neither Qur'ān nor *Ḥadīths* distinguish loans according to the status and purpose of the borrower[392]. Also the clear distinction in Qur'ān between trade and interest[393] and the explicit declaration of conditioning any form of advantage as *ribā* in the *Ḥadīth*[394] negate the permissibility of commercial loans[395]. Moreover, citing the early commentaries on the Qur'ānic verses of *ribā,* Maudūdī factually demonstrated the existence of *ribā* in commercial transactions in pre-Islamic Arabia[396].

Apart from these argumentations, Manazir Ahsan Geelani (1892-1956) [397] attempted to legalise *ribā* by categorising India[398] as *Dār al-Ḥarb.* Relying on the ruling (Ar., *Fatwā*) of Imām Abū Ḥanīfa (c.699-767) that a Muslim, who has moved into *Dār al-Ḥarb* by signing contract of protection with that land (Ar., *Muslim Musta'min*), can acquire wealth from a non-Muslim without considering the means through which that wealth is created[399], Geelani validated the exception of *ribā* prohibition to Muslims in *Dār al-Ḥarb*. Here, by interpreting non-Muslim in *Dār al-Ḥarb* as every non-Muslim other than those who are living in the protection of an Islamic state (Ar., *Dhimmī*), he authorised *ribā* transactions universally barring only Islamic states. Geelani substantiated this further by restricting the sphere of Qur'ānic command "O you who have

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[389] Maudūdī justified this argument referring to Qur'ān 2:279 (see chapter 1, page no. 30-31).

[390] Significant majority of Muslims also uphold this idea.

[391] Maudūdī, *Interest,* 171, 186.

[392] Ibid, 179, 189.

[393] Qur'ān 2: 275 (see chapter 1, page no. 30-31).

[394] Despite being weak (Ar., *Ḍa'īf*), the *Ḥadīth* has been treated as authentic due to the unanimous recognition of it by Islamic scholars. This method is based on the *Ḥadīth* reported by Ibn 'Umar that "Indeed Allah will not gather my Ummah…upon deviation, and Allah's Hand is over the Jama'ah, and whoever deviated, he deviated to the Fire." Muḥammad Ibn 'Īsa At-Tirmidhī, *Jāmi' At-Tirmidhī*, Book 33, Ḥadīth 10.

[395] Maudūdī, *Interest,* 185-186.

[396] Ibid, 203-204.

[397] Geelani was a Sunni Islamic scholar and ex-Dean of the faculty of theology in Osmania University.

[398] Here India refers to the pre-partitioned India under British rule.

[399] This ruling is based on a weak *Ḥadīth* reported by Makḥuwl that "there is no interest between the 'ḥarbī'…and a Muslim." Ibid, 242-245, 268-269. Geelani also adverts to the mandatory obligation of a Muslim who asks for security in non-Muslim country to abide by the rules of that land. (Ibid, 227-229)

believed, do not consume usury…" (Qur'ān 3: 130)[400] among the Muslims alone[401]. Citing the evolution of *ribā* prohibition, he attempted to demonstrate that the Prophet (ﷺ) outlawed *ribā* only after the inception of Islamic rule[402]. Consequently Geelani justified all banking transactions and accused the Muslim capitalists who denounce interest of committing crime against the community since that wealth, instead of empowering the community, is strengthening un-Islamic forces[403]. The intention behind this legal innovation, Geelani explicitly states, is financial defence of Muslim community considering the dire situation of marginality they are in[404].

Despite being sympathetic towards the intentions of Geelani, Maudūdī debunked his arguments in entirety. Firstly, Maudūdī contradicted Geelani's restricted application of *ribā* prohibition among Muslims. Geelani's literal reading of Qur'ān overlooked the fact that addressing believers is a common narrative style of Qur'ān and every Islamic jurist prior to Geelani has identified the scope of the Qur'ānic command to the entire humankind[405]. Secondly, by defining *Ḥarbī* as a non-Muslim in direct war with *Dār al-Islam,* Maudūdī limited the exemption of *ribā* prohibition into the warzone[406]. He also rejected the inclusion of Indian Muslims into the category of *Muslim Musta'min,* since they are neither citizens of *Dār al-Islam* nor are they temporary residents of *Dār al-Ḥarb*. Since Indian Muslims are not *Muslim Musta'mins* they cannot take advantage of the exemption from *ribā* proscription. Indian Muslims, according to Maudūdī, are under the rule of non-believers and they are obligated to emigrate to *Dār al-Islam* and if that is not possible then they must strive to transform the country into *Dār al-Islam*[407]. Thence Maudūdī upheld *ribā* interdiction on Indian Muslims.

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400 *The Quran,* tr. Saheeh International (1997).

401 Maudūdī, *Interest,* 260.

402 Ibid, 264-265.

403 Ibid, 247-249.

404 Ibid, 270-275.

405 Ibid, 284.

406 Ibid, 287-290.

407 Ibid, 343-344.

Parallel to the argumentations with Muslim intelligentsia, Maudūdī engaged with the discourse of interest in secular thought as well. He attempted to debunk major justifications of interest in classical economic thought[408]. First of all, interest is rationalised as a compensation for the risk the lender undergoes and as a rent for utilising the money which the lender could have used for their own advantage. Maudūdī recognized the risk involved in debt transactions, but interest for risk is groundless since risk not a quantifiable commercial commodity. Moreover, the lender has a choice either to demand security for the debt or deny loan. The demand for the opportunity cost is legitimate only in the case of commercial loans. However predetermination of fixed opportunity cost in the form of interest is illogical due to the probability of both profit and loss from the investment. Rent is also not applicable either on money or on goods like rice since these are expendable commodities[409]. Here, adhering to the concept of money in early scholastic and Islamic thought, Maudūdī confuted interest. Secondly, a debtor availing money itself will substantiate interest because profitability is an intrinsic characteristic of capital. Maudūdī discredited this claim by pointing out the necessity of other factors like labour along with capital for the generation of profit and even so the profitability is not guaranteed in any entrepreneurship[410]. Finally, interest is justified on grounds of the time value of money, i.e., money at present has more value than future, hence the lender charges for the devaluation of money for that period. Maudūdī perceived this devaluation not as concrete economic phenomenon, rather as mere psychological assumption[411]. I argue that, by reducing the devaluation to a psychological event, Maudūdī missed out the real phenomenon of inflation in modern economy.

Besides critiquing justifications of interest, Maudūdī challenged rationale of interest rate in classical economics. Inconsistency in the rate of interest across time and space itself, according to Maudūdī, is a clear indication of its unreasonableness. The idea that rate of interest is decided according to the lender’s personal need for capital is erroneous since only a marginal percentage of total capital is being catered for the personal necessities of the lender. The determination of

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[408] I could not trace the sources Maudūdī relied on for understanding the concept of interest in classical economic thought.

[409] Ibid, 46-49.

[410] Ibid, 52-54.

[411] Ibid, 50-51, 54-55.

interest rate by applying the logic of demand and supply of capital for investment will only end up in economic depression[412]. In addition to this, the claims of economic benefits of interest, i.e., motivation for saving and ensuring continuous flow of financial capital to the best enterprises in the economy, was outrightly rejected by Maudūdī. In his view interest prompts hoarding and underutilisation of wealth, leading to decline in sales, production, and employment eventually ending up in economic depression[413].

Apart from this, Maudūdī engaged in an in-depth critique of interest in varied spheres of life. Morally, interest will breed negative characteristics like selfishness and materialism and this will create a social situation in which the need of one individual will be perceived as an opportunity by the other. This perennial antagonistic relation between the lender and the lendee, according to Maudūdī, will beget social and cultural deterioration eventually leading to the economic deterioration as well[414]. Economically, Maudūdī propounded the ill effects of interest in all four forms of loans. In the case of personal loans there is a high possibility, particularly among economically marginalised sections, to get trapped in the clutches of interest and getting pushed into perpetual economic indebtedness. The ceaseless anxiety arising out of this scenario will not only reduce the work capacity but also force them into anti-social activities like crime. Consequent reduction in productivity of labour and purchasing power of the debtor will hit the commerce, ultimately ending up in economic depression. On commercial loans, Maudūdī rebuked moneylenders since they are the only class having the privilege of fixed profit indifferent to the realities of the market. More than that the lender hoards capital to attain maximum benefit of the fluctuations in financial market and invest capital only in enterprises in which profit is completely assured. This protectionist approach will foster mediocre business while hindering enterprises

412 This system is based on speculation in which the lender speculates high rate of profit whereas the borrower speculates both profit and loss. The system, therefore, operates on continuous rivalry between the two. Economically, along with the rise in the demand for capital in the economy, the lender increases the interest rate to the extent that business will no longer be profitable to the entrepreneur. At this stage the demand decreases and the economy becomes stagnant and the lender reduces interest rate to revitalise the economy. This continuous cycle will ultimately result in recurring depression in capitalist economy (Ibid, 57-61). This line of thought is similar to Marxian critique of capitalism.

413 Ibid, 63-69.

414 This idea of Maudūdī is antithetical to classical economics concept in which the pursuit of self-interest will result in the prosperity of the economy. Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations Volume 2* (United Kingdom: Clarendon Press, 1869), 28.

catering to public interest. Regarding public debts the government amasses from the capitalists within the nation, the inevitability of interest payment necessitates governments to extract wealth in the form of taxes. The transfer of taxed money to the capitalists in the form of interest, is indeed an indirect exchange of wealth from the poor to the rich within the country via the medium of government. More critical than this, the sovereign debts will disturb the autonomous monetary and economic status of the indebted nations and thereby engendering extremist political, cultural and economic ideologies[415].

Besides the theoretical critique of interest, Maudūdī analysed the history of modern banking system and traced it back to the emergence of paper currency[416]. The evolution of the practice of paper receipts of gold deposits instead of real gold for monetary transactions, created a situation in which large deposits of gold amassed with the goldsmiths. Recognising the opportunity that only a marginal share of total gold is being withdrawn, the goldsmiths began to issue loans from the gold reserve. Trickier than this, they issued paper receipts as loans much beyond the actual reserve they had and charged interest for the same leading to popularisation of paper currency. This system, according to Maudūdī, is based on fake capital hence baseless. In the next stage, to accumulate the savings of the public, the moneylenders offered interest for the savings. This resulted in the concentration of wealth with moneylenders thereby restricting major source of capital only to interest mechanism. Finally, similar to other corporations, they organised as modern banks and spread across the world. Deducing from this narrative, Maudūdī interpreted modern banking as a systematic robbing mechanism encompassing the entire population founded solely on the principle of materialism[417].

More than shaping the practical reality of modern life, Maudūdī recognised, this materialist ideology of capitalism has ingrained into the psyche of Muslim common sense[418]. Maudūdī explored the possibility of communist alternative to capitalism, but abandoned it as 'unnatural'

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[415] Ibid, 71-87.

[416] Though not explicitly stated, Maudūdī is generalising the history of goldsmiths in London from 17th to 19th century as the history of modern banking. Even so goldsmiths had a crucial role the in the evolution modern banking.

[417] Ibid, 89-100.

[418] Ibid, 11. Maudūdī used the term 'our' to denote Muslims. So, the word 'Muslim' here denotes the Muslim community Maudūdī was part of.

due to its denial of the pursuit of human self-interest[419]. In the search for perfect economic alternative, Maudūdī ended up with Islam which he defined as a ‘balanced economic system' antithetical to the two extremes of capitalism and communism[420]. Responding to the major economic questions in his period might have influenced Maudūdī to perceive Islam as a ‘balanced system’.

In conjunction with the conceptualisation of Islamic economic system, Maudūdī formulated its comprehensive structure and identified interest prohibition as one among the four fundamentals of the system[421]. Citing that no other sin in Islam has been proclaimed as harshly as interest, he construed the real objective of interest prohibition as the annihilation of capitalism[422]. Consequently constructing an interest-free finance is incommensurable under capitalist economic system[423]. Islamic modernists’ attempt to modify interest prohibition to reconcile with the economic reality under capitalism has been deeply analysed and harshly critiqued by Maudūdī. He states:

> “…If we accept the principles and theories of capitalism and then look at the economic injunctions of Islam through the prism of those capitalist theories, then certainly all those Islamic rules and regulations would either appear to be totally incorrect or they would have to be modified in such a way that they would then be totally removed from the principles of Islamic Law and would be moulded in the nature of Capitalism…instead of being a follower of Islam, you want Islam to follow you. And you want Islam to change its principle and adopt the principles of the capitalist economic system so that you could remain in its fold… If a Muslim fears Allah and believes in the Day of Judgement, then escape from the Wrath of Allah and keeping away from the unlawful should be dearer to him than the growth of business and financial profits…if you want to devour interest and make others do the same then you may very well do so, for, you have every freedom to commit any type of sin. But as a Muslim you will definitely not have the courage to devour interest and feed

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[419] Ibid, 17-20. This critique of communism from Maudūdī is intriguing since it sounds similar to liberal critique of communism. A study of premodern Islamic perception of human nature may bring more clarity to the roots of his critique, though it is beyond the scope of this thesis.

[420] Ibid, 13. He justified this position by pointing to the efficacy of Islam to protect both individual and community wellbeing by pursuing Islamic moral principles and legal codes. (Ibid, 20-23)

[421] Ibid, 43.

[422] Ibid, 108.

[423] Ibid, 12.

> others by declaring it to be lawful for yourself and try to clear your conscience from its guilt and try to purify the thing which Allah and His Messenger (pbuh) have declared impure."[424]

Reminiscent of Islamic revivalism, Maudūdī traced the genesis of modern economic crisis to the deviation from Islam[425]. Similar to Islamic modernists, he acknowledged the necessity of recodification of Islamic laws (Ar., *Tajdīd*) in radically transformed modern circumstances, but conspicuously contradicted from them on the method and purpose of recodification. In his view, while the Islamic modernists are attempting to restructure Islam according to modernity, he is striving to replace the redundant laws of Islam[426] with new ones to cohere with the eternal principles of Islam, deriving directly from Qur'ān and *Ḥadīth*[427]. Centering on this, Maudūdī formulated principles of relaxation of laws. He concorded with the tenet that laws can be lenient but the scale of leniency has to be grounded upon the scale of hardship. Also the method adopted for the alleviation of harm should not cause more or equal harm. Hence Maudūdī negated the idea that means can justify ends in Islam. Moreover he signified the prevention of evil over the protection of public interest, thereby debunking the very basis upon which Islamic modernists justified interest[428]. Deriving from these principles, Maudūdī formulated the laws of interest. The relaxation of the injunction is restricted to the giver of interest whereas the recipient is guilty under every circumstance[429]. Nonetheless, the validity of the concession is determined according to the gravity of the situation[430] and the concession ends with the receding of the situation. In case of interest received on the wealth deposited with bank during calamities for its protection, leaving off

[424] Ibid, 11, 111, 143, 14.

[425] Ibid, 109.

[426] Here the domain of substitution is restricted to the laws made by the scholars of Islamic jurisprudence excluding the fundamental laws of Qur'ān and *Ḥadīth.*

[427] Though pure in intention to establish authentic Islamic laws in consonance with the principles of Islam, Maudūdī's construing of the principles was influenced by the context he was situated in. Nonetheless, recognizing the slippery slope of that argument, he ordained strict pre-requisites for an individual to have the right of recodification. Ibid, 127- 138.

[428] Ibid, 138-141.

[429] In Maudūdī's view, not only the receiver of interest but also every affluent person in the community is guilty of the sin, since their withholding of wealth creates the crisis. He extended the culpability to sovereign Muslim nations because their disregard primarily created the situation for the borrower.

[430] Although Maudūdī attempts to determine the contours of extremity, he recognises the inverse relation between perception of an extreme situation and the scale of religiosity of an individual.

the interest with bank is forbidden since this will augment the banking system. Rather one should return it to poor, since, according to Maudūdī, interest is primarily extracted from them[431].

Moving beyond the recodification of Islamic law, Maudūdī ventured to construct a general framework for an interest-free Islamic economic system and this construct functioned as a language upon which Islamic economics developed as a distinct field of study in later decades. Despite being the first Islamic philosopher to justify Islam in the language of modernity, Maudūdī and his thought was never subsumed within it. Maudūdī's justification of Islam in secular language was fundamentally a response to Islamic modernists' reinterpretation of Islam in the context of colonial modernity. In spite of this, reference to a realm beyond the immanent reality was fundamental for Maudūdī to carve out a distinct space for Islam amidst its colonisation by the hegemonic ideologies of the west. Despite having a pure intention of reviving authentic Islam, his recodification of Islamic laws on interest was influenced by the inevitable context he was situated in.

The discourse on *ribā* within Jamaat-e-Islami Hind (JIH) of Kerala has been fundamentally influenced by Maudūdīan interpretation of *ribā.* The work of Abu Shakir, *Paliśayuṁ Paliśa Rahita Bēṅkiṅṅuṁ* (Interest and Interest-free Banking), published in 1981, is a reiteration of Maudūdīan works on interest[432]. Having stated that, Shakir's political status as a member of a minority located in an Indian state forced him to devise strategies other than Maudūdīan propositions, to safeguard an interest-free financial environment. This is exemplified in the scheme of interest-free co-operative funds conceding that the government will outlaw the proposal for Islamic banking[433]. The complexities of contemporary finance have necessitated its nuanced analysis in accordance with Islam and the edited collection of A. A Haleem, *Inṣuṟansuṁ Ōhari Vipaṇiyuṁ* (Insurance and Stock Market), published in 2014, is a moderate attempt to address the practical dilemmas Muslims encounter in modern finance[434]. Instead of providing definite answers, the work presents diverse narratives of scholars and this approach is in consonance with Jamaat's stance of tolerance of

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[431] Ibid, 141-143.

[432] Abu Shakir, *Paliśayuṁ Paliśa Rahita Bēṅkiṅṅuṁ* (Calicut: The Prabodhanam Press, 1981).

[433] Ibid, 22.

[434] Here the word Muslims implicitly denotes a section of Muslims who are concerned to live according to Islamic *sharī'ah*.

plurality in matters of Islamic jurisprudence. Even so the majority view and the general structuring of the book is critical of the existing financial practices. On the question of *ribā* in insurance, particularly run by firms for profit, scholars like K. Abdulla Hasan and V. A Kabeer legitimised receiving the excess beyond the premium paid in situations of accident. While Hasan's justification of insurance was presumed on the negation of insurance as a monetary transaction, and hence as outside the purview of *ribā,* Kabeer relied on rhetorical disguise of treating the excess as bonus not interest[435]. This view has been debunked by the majority of scholars by pointing out that, firstly, the nature of transaction in insurance is monetary and hence the excess amount is *ribā al-faḍl* and secondly, the insurance companies earning interest by investing in money marketing instruments is *ribā al-nasi`ah*[436]. On the issue of *ribā* in stock market, except K. M Taqiyudheen's tolerance of investing in firms having up to 5% interest in their total revenue, scholars have general consensus on refraining from all forms of *ribā*[437]. They considered the aspects of stock market involving interest, i.e., investment in firms that either pay or receive interest, trading on margin, short selling and investment in bonds, etc., within the scope of *ribā* prohibition and proposed for the development of an alternative investment mechanism in consonance with Islam[438]. Moving away from Maudūdīan rigorous interpretation to more docile approach towards *ribā* prohibition by a marginal group within the Jamaat is not only an indication of Jamaat's accommodative approach but also a sign of inadequate scholarship on *ribā* and the internal dilemma of the organisation to engage with the complexities of modern finance[439].

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[435] K. Abdulla Hasan, "Insurance Islāmika Pariprēkṣyaṁ," & V. A Kabeer, "Vidhi Prastāvaṁ Ēkapakṣīyamāvarut," in *Inṣuṟansuṁ Ōhari Vipaṇiyuṁ*, ed. A. A Haleem (Malappuram: Santhapuram al-Jamia Alumini Association, 2014), 28-29, 35.

[436] Muhammed Kaderi, "Insurance: Pramāṇaṅṅaḷude Veḷiccattil," , P. A Shameel Sajjad, "Insuransinṟe Islāmikata Pariśōdhikkumpōḷ," & V. K Ali, "Islāmika Badal Anivāryaṁ," in *Inṣuṟansuṁ Ōhari Vipaṇiyuṁ*, ed. A. A Haleem (Malappuram: Santhapuram al-Jamia Alumini Association, 2014), 46- 47, 52- 53, 59- 60.

[437] K. M Thaqiyudheen, "Ōhari Vipaṇiyude Islāmikata," in *Inṣuṟansuṁ Ōhari Vipaṇiyuṁ*, ed. A. A Haleem (Malappuram: Santhapuram al-Jamia Alumini Association, 2014), 86.

[438] M. V Muhammad Saleem, "Ōhari Vipaṇi Islāmika Vīkṣaṇattil,", P. Subair, "Ōhari Vipaṇiyumāyi Bandhappeṭṭa Cila Vastutakal," & K. Jabir, "Śarīatt Vilakkiya Saṁgatikal" in *Inṣuṟansuṁ Ōhari Vipaṇiyuṁ*, ed. A. A Haleem (Malappuram: Santhapuram al-Jamia Alumini Association, 2014), 67- 73, 78-79, 81, 90.

[439] Compared to other issues of Islam, I could find only two books engaging with *ribā* written by members of JIH, Kerala. This is a clear indication of insufficient research in this area though I acknowledge the possibility of missing out old works which are out of publication.

## Later Contestations in *Ribā* Discourse in Kerala

Second significant deliberation on the interpretation of *ribā* happened with the publication of M. P Musthafa Faizi's controversial work, *Paliśa* in 1998. Faizi, then a member of Samastha Kerala Jam'eyyatul-Ulama (SKJU) EK faction[440], invented novel 'trickery' in *sharī'ah* to legitimise interest bearing modern financial transaction. The text has been unanimously repudiated by all organisations, including SKJU EK faction. In response to the criticisms loomed against the work, Faizi wrote one more book, *Paliśa Viruddha Pañcalakṣyaṁ*, to substantiate the claims of the first work.

At the outset Faizi underpinned the constraints on permissibility of trade and prohibition of *ribā* (Qur'ān 2: 275) in case the specific laws contradict with it[441]. On the definition of *ribā,* Faizi adhered to the traditional scholarship of *Shāfiʿi madhhab.* However, he dissented from his contemporaries on the inclusion of modern currencies within the purview of *ribā al-faḍl*. Building upon Imām *Shāfiʿi's 'illah* of gold and silver, i.e., intrinsic universal monetary value[442], Faizi argued that in contrast to gold and silver, the value of modern currencies relied on technical rules, consequently bound to spatiotemporal restrictions. Hence the application of 'deductive analogy' (Ar., *Qiyās*) to modern currencies is invalid[443]. In effect, the omission of modern currencies from the scope of *ribā al-faḍl* legitimised its unbridled unequal transaction.

The circumscription of *ribā al-faḍl* was not sufficient to authorise interest financing since ordaining any form of benefit to the lender will fall into *ribā al-Qarḍ*[444], consequently Faizi invented a 'legalistic trickery' (Ar., *Ḥīlah*) to transcend *ribā* proscription. Gleaning from Qur'ānic statement that no hardship has imposed in the religion (Qur'ān 22: 78), he argued that both laws and loopholes within laws are the creation of Allah, hence availing loopholes is indeed upholding

[440] Due to strong dissent against the book, Faizi had to withdraw from the organisation and joined with the AP faction. Later on he went back to the EK faction. Currently he is a member of the *Mushāwarah* (supreme body of the organisation consisting of 40 eminent scholars) of the organisation.

[441] M. P Musthafa Faizi, *Paliśa* (Tirur: Al-Mubarak Book House, 1998), 14.

[442] See chapter 1, page no. 32.

[443] Faizi, *Paliśa,* 18, 42-45; M. P Musthafa Faizi, *Paliśa Viruddha Pañcalakṣyaṁ* (Tirur: Al-Mubarak Book House, 1999), 18, 65-68, 71-79.

[444] Faizi, *Paliśa,* 19-20. *Ribā al-Qarḍ* means *ribā* in loan transactions.

laws[445]. Thus, intentionally transforming forbidden acts into permissible acts via permissible means is ‘detestably allowed’ (Ar., *Makrūh*) in *Shāfiʿi madhhab*[446]. In *Shāfiʿi madhhab,* following the letter of *Sharīʿah* is sufficient due to the inherent limitation in human knowledge on understanding the intentions of other humans. Radically departing from this conception, Faizi has legitimised the ‘intention’ of transforming unlawful to lawful acts[447]. Furthermore, diverging completely from the tradition of ‘*Ulamā’,* he endorsed ‘detestable acts of trickery’ by asserting the impracticality of Islamic laws under modern circumstances[448].

Regarding ‘legalistic trickery’ in *ribā* (Ar., *Ḥīlah al-Ribā*)*, Shāfiʿi madhhab* has tolerated it if loans without obligating *ribā* are inaccessible for a Muslim in a dire situation to sustain life. In such circumstances a Muslim can give *ribā* to the lender by intending it as charity, loan or trade[449]. Faizi expanded the concession of *Ḥīlah al-Ribā* from life sustenance to the needs of expanding income for every Muslim who doesn’t have an option to avail interest-free loans[450]. Further appropriating this provision, Faizi invented a new ‘trickery’, i.e., instead of redefining *ribā,* he reinterpreted the nature of bank transaction as involving no ‘conditioning’ of benefit. He substantiated this depiction of banking by narrowly defining the act of transaction as a process of exchange, consequently the contract of interest guaranteeing benefit to the lender is rendered as outside the banking transaction![451] By this narrow definition of transaction, Faizi exempted both interest bearing loans

[445] Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 57-58.

[446] Faizi, *Paliśa,* 23.

[447] I think this idea of Faizi is directly related to his interpretation of a *Ḥadīth* in which the Prophet (ﷺ) commands to sell cheap quality dates for market price and then buy high quality dates with that money (See chapter 1, page no. 43) to overcome *ribā*. With this instruction, the Prophet (ﷺ) averted the possibility of unequal transaction in the barter of similar commodities. But Faizi interpreted this *Ḥadīth* as Prophet’s advice of ‘trickery’ to convert forbidden act to permissible act to escape from the punishment of *ribā*. Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 35-36, 62-63.

[448] Ibid, 31-32.

[449] Ibid, 21-22; Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 25.

[450] Ibid, 37; Ibid, 45.

[451] Although the definition of transaction may appear as irrational, Faizi has provided references from the works of early scholars to justify this interpretation. Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 31.

and deposits in banking from the prohibition of *ribā*[452]. Finally, he legitimised all forms of interest ridden modern financial transactions by claiming that these transactions will not fall into the category of either loan or trade, hence not subject to the regulations *ribā*[453].

Faizi's normalisation of interest in *sharī'ah* is closely connected to his perception of modern financial system, particularly banking and insurance. These institutions, in his view, are functioning on the basis of mutual trust and satisfaction. This cooperation of people for economic security and growth is indeed a social service. Hence modern economic cooperative institutions are distinguishable from economically exploitative money lending in the pre-modern period[454]. Faizi states:

> "We are not living in an Islamic country. Ours is a secular democratic nation. Those who contend that following law of the land is Shirk, they have no choice other than to abandon the banking system…Modern banks are not owned by former usurers. Presently banks are cooperative institutions functioning on the authority of rules and regulations formed by the people to serve their interest."[455] [My translation]

Thus, terming the excess from these institutions as 'interest' is inappropriate and Faizi suggests to rename it as 'benefit'![456] His proposal for euphemistic transfiguration of the word 'interest' resembles Muhammad Sayyid Tantawi's (1928-2010) approach towards *ribā*[457].

Throughout both the works, in addition to legal sanctioning of interest, Faizi condemned the hypocritical covert engagement of majority of '*Ulamā'* with interest and projected his innovated

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[452] Similar to the justification of interest, Faizi has validated dowry in Islam by separating the conditioning and exchange of dowry from the ritual of marriage. Faizi, *Paliśa,* 35, 39; Faizi, *Paliśa Viruddha Pañcalakṣyaṁ*, 31-34, 81-84, 40.

[453] Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 30-31. Contrast to this argument, the substantiation of interest in insurance in the first work of Faizi, *Paliśa,* relied on the new 'trickery' invented for the legitimization of bank interest. Faizi, *Paliśa,* 40.

[454] Faizi justifies this further by pointing to the approach of '*Ulamā'* towards photos. Photo, once considered as idolatry, is now being used to propagate against idolatry. Parallel to this, money lending, once being economic exploitation, is now turned into a social service system. Faizi, *Paliśa Viruddha Pañcalakṣyaṁ*, 51.

[455] Ibid, 54-55.

[456] Faizi, *Paliśa,* 35; Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 50-51.

[457] Faizi cites Tantawi's thought on the issue for validating his interpretation of *ribā.* Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 91.

'legalistic trickery' as a sincere attempt to tackle the economic crisis of Muslim community. In his conviction, without the resort to loopholes in *sharī'ah,* Islam will be reduced to impractical redundant religion[458]. Faizi writes:

> "Being denigration to the entire world, Muslims (*conscientious in following the laws of Islam*), cannot sustain in economic affairs…therefore, **deviating from the conscientiousness of Ṣūfīy, we need to move ahead by deploying maximum loopholes and concessions of law**. Muslims across the world, individually and collectively, are connected to banking and insurance…Instead of accusing everyone of sin, it's better to acquit them by utilising the concessions of law…**The reason for belittling this (*loophole*) is neglecting the thoughts of afterlife.**"[459] [Emphasis and Italics added. My translation]

This logic of justification determines right from wrong in accordance with the pervasiveness of an act. In other words, in Faizi's view, Islamic validity of an act is contingent upon the prevalent empirical practice. This doesn't mean that he is prioritising the concerns of immanent material reality over the commands of a transcendental authority. Rather the perception of a harmonious relation between the immanent reality and Islam was crucial for his justification of the former and this is reflected in his insistence on the necessity of the language of Islam for the legitimisation of interest. However this conceals the inherent inconsistency in Faizi's thought, i.e., if Islam is in congruence with modern reality he encounters, why does it require rampant use of concessions and loopholes for a Muslim to live in accordance Islam? Proceeding from this, I argue that Faizi's conviction of the redundancy of Islamic laws necessitated his invention of loopholes to align Islam in accordance with the modern economic ideology and the basis of this conviction in turn relied on perception of Islam through the lens of modern economic ideology[460].

Faizi's first work, *Paliśa,* was denounced by all major Islamic organizations including his own organization[461]. Due to the strong dissent within the Samastha, he had to issue a statement that he

[458] Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 43.

[459] Faizi, *Paliśa,* 33; Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 63.

[460] Faizi used the word Islam in traditionalist sense as representing the fundamental scriptures and Islamic jurisprudence. The paragraph also followed that definition of Islam.

[461] Faizi, *Paliśa Viruddha Pañcalakṣyaṁ,* 96-98. I could not trace the responses to the work since most of it were magazine articles published in late 1990s.

complies with the organization's judgement on *ribā*[462]. Within the organization, Siyahudheen Faizy Melmury's work, *Islāmika Sampadghaṭana,* published in 2002, has indirectly critiqued Faizi's legal innovation for bypassing *ribā* proscription. In contrast to Faizi's technical reading of *Ḥadīths* on generous repayment of debt by Prophet (ﷺ), Melmury identified the principle behind sharing of happiness by a liberal payback as the moral consciousness of the debtor, not any terms and conditions. Interest based transactions with the bank cannot be considered in the category of voluntary generous repayments since interest is stipulated in the fundamental tenets of modern financial institutions. In his view, legitimising interest on the basis of sheer lack of verbal utterance of the terms of interest in the moment of money exchange will dismantle Islam's objective behind *ribā* prohibition. Even supposing the exemption of interest from the censure of *ribā,* it will be barred under the common interdiction of exploitation[463]. This provision, I think, will weaken Islamic injunctions against interest since the validity of interest will then depend on '*Ulamā''s* subjective perception of exploitation. On the question of the permissibility of interest based debts in situations of necessity, unlike Faizi's blanket licensing, Melmury dissociated himself from making a judgement because it will be intervening in the sovereignty of Allah[464]. This line of argument prioritised *Shāfiʿi madhhab's* recognition of the limitations in human knowledge on the intentionality of acts over the methods provided in it to override the punishment of *ribā* for the debtor. With this interpretation, Melmuri incorporated interest in banking and insurance within the ambit of *ribā*[465].

Melmury's reading of *ribā* is tethered to his understanding of interest in contemporary finance as an economic exploitative mechanism furthering concentration of wealth and inequality across the world[466]. Besides economic exploitation, he marked out the detrimental impact of interest on all

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[462] In a telephonic interview, Faizi clarified that the statement was an organizational decision and he maintains the claims in both works. M. P. Musthafa Faizi (Member of the *Mushāwarah* of Samastha Kerala Jam'eyyat ul-Ulama EK faction), in discussion with this research scholar, Palakkad, April 2022).

[463] Siyahudheen Faizy Melmury, *Islāmika Sampadghaṭana* (Pattikkad: Noorul Ulama Students Association, 2002), 68.

[464] Ibid, 68-69.

[465] Ibid, 71.

[466] According to Melmury, financial exploitation of interest in modern age is far more jeopardising than pre-modern period not only because of pervasive systematic nature of exploitation but also because of its normalisation in popular psyche. Ibid, 58-59.

aspects of human life[467]. Hence, for him, interest is antithetical to Islam[468] and he propounded an Islamic alternative to the existing economic system. In particular, he emphasised *Qirāḍ* transactions, i.e., partnership contract between owner of the capital and worker in which the former has to bear the entire loss while the profit will be shared by them according to a predetermined ratio, as diametrically opposite of interest-financing and a practical method to overcome it[469]. Melmury's endorsement for the construction of an Islamic alternative is antithetical to Faizi's compliance with the existing financial system.

Earliest detailed critique of Faizi's work[470] was the book, *Paliśakketire,* written by Perod Abdul Rahman Saqafi in 1998. He currently holds the position of joint secretary of Samastha Kerala Jam'eyyatul-Ulama (SKJU) AP faction. Throughout the work, Saqafi negated Faizi's interpretation of *ribā.* On the inclusion of modern currency within the prohibition of *ribā al-faḍl*, Saqafi, by citing the sources within *Shāfiʿi madhhab,* asserted that modern currencies have universal value of exchange. Therefore it is comparable to gold and silver and its equal and deferred transaction will be *ribā al-faḍl*[471]. Secondly Faizi's exegesis of the Qur'ānic verse '…not placed upon you in the religion any difficulty…' (22: 78) as a provision to evade *ribā* proscription by deploying 'trickeries' in situations of need has been confuted by Saqafi. In Saqafi's view, this presentation of the Qur'ānic verse will not only decimate Islam's censure of *ribā,* but also obliterate every Islamic interdiction[472]. Faizi's reasoning of Prophet's character of generosity in debt repayment as legitimisation of intentionally receiving interest for deposits is refuted by Saqafi by referring to a *Ḥadīth* explaining *ribā* reported by Abū Burdah ibn Abī Mūsā (d. 721):

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[467] With statistical data, he attempted to establish a direct correlation between indebtedness and crimes. Ibid, 58-60.

[468] Alija Izetbegović's and Sayyid Quṭb's thoughts have influenced Melmury's ideas on interest. Ibid, 62-66.

[469] The employee is exempted from sharing loss considering the labour they have sacrificed for the business. Ibid, 74- 79.

[470] Due to multiple constraints, the thesis is only engaging with responses in the form of published books, excluding magazine, periodical and newspaper articles.

[471] Saqafi permitted unequal exchange of foreign currencies having identical value. Perod Abdul Rahman Saqafi, *Paliśakketire* (Kozhikode: Kuttiady Publications, 1998), 44, 51-56, 63.

[472] Ibid, 30-31.

"I came to Medina and met 'Abdallah b. Salam who said, "You are in a land in which usury (*ribā*) is common, so when anyone owes you anything and presents you with a load of straw, or a load of barley, or a rope of lucerne grass, do not accept it for it is usury."[473] [Italics added]

Moreover Saqafi emphasised the significance of conformity to conscientiousness for the protection of the *Dīn*, i.e., Islam, of Muslims[474]. Finally Saqafi contradicted the loophole invented by Faizi by pointing that intentionally written contracts are part of transaction, hence the written contract of interest prior to the exchange of money is indeed conditioning benefit to the lender, hence explicit *ribā*[475]. Consequently interest transactions in bank are forbidden *ribā* and the entrenchment of Muslims in it will not metamorphose impermissible to permissible act[476]. Furthermore Saqafi related Faizi's legitimisation of interest to the prophecy reported by Abū Sa'īd al-Khudrī (c. 612/13- 693/94) that:

"The Prophet (ﷺ) said, "You will follow the ways of those nations who were before you, span by span and cubit by cubit (i.e. inch by inch) so much so that even if they entered a hole of a mastigure, you would follow them." We said, "O Allah's Messenger (ﷺ)! (Do you mean) the Jews and the Christians?" He said, "Whom else?"[477]

Similar to the literature of K. C Maulavi and Maudūdī, Saqafi's rhetoric of associating advocacy of interest with the apocalyptic prophecy is a common pattern in Islamic critical discourse on interest. Reassertion of this rhetoric might have stemmed from its potential to represent normalisation of interest as an inevitable unfolding of time.

Other two major scholars in Samastha AP faction who engaged with *ribā* are M. K Ismail Musliyar Nellikkuth (1939-2011) and M P M Basheer Faizy Vennackode. Musliyar, who was a member of

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[473] Muḥammad ibn 'Abd Allāh al-Khaṭīb at-Tibrīzī, *Mishkāt al-Maṣābīḥ,* Book 11, Ḥadīth 72; Ibid, 32-33.

[474] Ibid, 24-25.

[475] Citing *Asnā al-Maṭālib* (2/23) of Zakariyā al-Anṣārī (1421-1520), a great scholar of *Shāfi'i madhhab* and supreme judge under Mamluk sulatanate, Saqafi argued that if excess is intended both intention and the transaction are wrong. Saqafi, *Paliśakketire,* 35- 38, 66.

[476] Saqafi is also critical of insurance firms since they generate profit by investing in interest ridden money marketing. Ibid, 34, 69-70, 26. Faizi's second work, *Paliśa Viruddha Pañcalakṣyaṁ,* has particularly responded to Saqafi's criticisms by reasserting his arguments with more evidences within *Shāfi'i madhhab. Paliśa Viruddha Pañcalakṣyaṁ,* 99-142.

[477] Muḥammad ibn Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī,* Book 96, Ḥadīth 50; Ibid, 18-19.

the central Mushāwara, published the book in 1992, *Islāmile Sāmpattika Niyamaṅṅaḷ*, covering all major economic laws of Islam[478]. Along the lines of the traditional scholarship in *Shāfiʽi madhhab*, Musliyar defined *ribā.* He constituted all forms of interest based bank transactions and insurance within *ribā al-Qarḍ* due to its conditioning any form of benefit to the lender[479]. Referring to the Qur'ānic command (2: 275) on lenders to retain only the principal, Musliyar refuted the claims favouring interest, for example that Islam has forbidden only interest in exorbitant rate and interest in consumption loans. He also contradicted interest legitimation citing currency devaluation, by pointing to the absence of provision in the bank contract to pay back less than the loaned amount in situations of currency revaluation[480]. I think this method of refutation by alluding to non-reciprocity neglects the deeper question of managing equivalency in financial transactions amidst value fluctuations of currency in the present economic system. Apart from the critiques, Musliyar rationalised the interdiction of interest as it generates wealth by exploiting the labour of the debtor, destroys value of cooperation and cultivates slothfulness. Nonetheless he sanctioned banking and insurance if that is in compliance with *sharīʻah* [481].

M P M Basheer Faizy Vennackode's work, *Islamic Economy,* first published around 1992, is in congruence with the ideas of Musliyar. Sticking to the classification of *ribā* in *Shāfiʽi madhhab,* Vennackode defined *ribā al-faḍl* as unequal exchange, *ribā al-nasi`ah* as delayed exchange and *ribā al-yad* as postponed exchange in the commercial transaction of *Māl Ribawi* and *ribā al-Qarḍ* as conditioning benefit to the lender in loan transaction[482]. On the subject of treating currency as *Māl Ribawi,* Vennackode construed modern currency as analogous to gold and silver due to its quality of being universal value of exchange[483]. Based on this explication, he constituted the unequal transactions in the existing banking, insurance, welfare pension, provident fund and real

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[478] The book was very influential and the current fifth edition available in market was published posthumously in 2019.

[479] Musliyar included partnership business ensuring fixed returns within *ribā* due to the resemblance of fixed nature of returns with interest.

[480] M. K Ismail Musliyar Nellikkuth, *Islāmile Sāmpattika Niyamaṅṅaḷ,* 5th ed. (Calicut: Poomkavanam Books, 2019), 68, 157, 174-175, 179-183, 202-203.

[481] Musliyar endorsed the creation of the institution of '*Bayt al-Māl'* to attend to the economic needs, particularly social security, of Muslims. Ibid, 63, 67, 173, 197.

[482] M P M Basheer Faizy Vennackode, *Islamic Economy,* 3rd ed. (Calicut: MDS Books, 2018), 32, 37-38.

[483] Ibid, 39-48.

estate business within the interdiction of *ribā*[484]. Besides this, he denounced procuring donations for the conduct of Islamic organisations from *ribā* induced wealth as it will corrupt the piety of the present and future generations[485]. He also refuted Faizi's 'trickery' by treating the agreement of interest in banking as part of the transaction. Indirectly criticising Faizi's justification of the normalisation of interest, Vennackode states,

> "There is no evidence in *Shāfi'i madhhab* to popularise banking among the people due to the reason of Muslim community falling behind the global progress if they abstain from modern banking. The opening of interest free counters at banks is a testament to the fact that Muslims have been able to keep pace with global growth without interest…The perception that refrainment from modern banking and insurance will hamper the progress of Muslim community is accusing Islam that it is not capable of facing modern period. Islam as a religion does not have to rely on any other system."[486] [My translation]

According to Vennackode, prohibition of *ribā* will strengthen the economic progress of the Muslim community and towards this end, he sketches out detailed plan for the construction of Islamic financial institutions without interest[487]. Similar to the scholars who promoted a distinct Islamic financial system, Vennackode's construction of interest-free Islamic financial institutions too required the perception of Islam as a perfect holistic entity transcending spatio-temporal specificities. However, this is not complete negligence of the specificities, rather accommodating it within the confines of *sharī'ah.* Indeed the attempts for *sharī'ah* compliant finance exemplifies the need within the Muslim community for economic progress amidst the changed realities.

After K. M Maulavi's publication of *Risālatun fī al-Banki* in 1929, another work from Kerala Nadvathul Mujahideen (KNM) engaging with the contention of interest in Islam was P. Abdulla's *Islāmuṁ Paliśayuṁ*. First published in 2011, Abdulla's categorisation of *ribā* is in consonance

[484] Ibid, 7-10, 33, 37, 145-146.

[485] This idea is derived from the belief that the consumption of forbidden wealth will not only corrupt the individual, but also their progenies. Ibid, 52.

[486] Ibid, 48-50.

[487] Ibid, 10-25.

with the *madhhabs* of Sunni Islam and he interprets all forms of interest as *ribā*[488]. Hence he incorporated fixed returns from investment, provident fund, recurring deposits, debentures and bonds, bank interest within the prohibition of *ribā*[489]. Besides this, earning wealth by providing facilities for interest based institutions, like renting building for a bank, is also forbidden[490]. Nonetheless Abdulla upheld concessions of *ribā* proscription to debtors in extreme circumstances to sustain life[491]. Regarding the issue of currency devaluation, Abdulla justified unequal exchange of value disadvantageous to the lender. In his conception, Allah, despite being aware of everything including devaluation, has not included any provision for the same. Since human beings have no authority to alter the commands of God, Abdulla, instead of attempting to equalise the exchange, vouched for lender's generosity[492]. Notwithstanding generosity being a virtue, this standpoint, instead of addressing the intricacies of modern finance, is imposing charity on the lender.

Abdulla's rationalisation of *ribā* prohibition, echoing the common rhetoric, relied on its advantages in present life and in afterlife. Economically, interest induced concentration of wealth in few hands hinders its investment in productive fields, leading to lower employment generation and economic growth, ultimately resulting in economic stagnation. Over and above the worldly detriments, indulgence in *ribā* will ultimately end up in everlasting despair[493]. Abdulla states:

> "The decree of Qur'ān and Sunnah that all kinds of interest is forbidden is absolute. It is valid until the Last Day (*of judgement*). No one has the liberty to classify it as ancient or modern or to contend that (*interest in*) antiquity is forbidden and (*interest in*) modernity is permissible. And whoever

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[488] Considering the classification of *ribā* in other three *madhhabs,* Abdulla has not recognised *ribā al-yad* in *Shāfiʿi madhhab.* P. Abdulla, *Islāmuṁ Paliśayuṁ,* 3rd ed. (Kozhikode: K. N. M Publishing Wing, 2017), 7-11.

[489] The schemes per se are not prohibited, rather receiving back excess or fixed returns from deposits and investments will come under the injunction of *ribā.* Ibid, 28-30, 32-37.

[490] Ibid, 39.

[491] Abdulla also justified occupations involving interest if there is no other possibility of subsistence. Ibid, 38.

[492] Ibid, 26-27. Scholars within KNM have different opinion on this issue. C P Umar Sullami, a scholar from the Madavoor faction of KNM, upheld accepting excess to reimburse devaluation. However the lender has to be cautious to ensure that repayment is equal to the loaned value. C P Umar Sullami (Ex-General Secretary of KNM), in discussion the author of this thesis, Palakkad, December 2019.

[493] Ibid, 17, 12-14.

> does so, they will be out of the circle of true-faith and will go astray."[494] [Italics added. My translation]

In addition to discerning *ribā* interdiction in terms of its impact in the immanent realm, the scholars who broadly interpreted *ribā,* consistently reckoned on the transcendental realm for the validation of their interpretation. The imagination of time beyond the secular threshold, not only helped buttress their argument, but also empowered to critique the normalisation of interest in the modern financial capitalism.

Despite the changes in juridical arguments in the interpretation of *ribā,* the fundamental logic of justification of the interpretation persisted from 1920s to the present. While the narrow interpretation of *ribā* prioritised the practicalities of the immediate reality Muslims have to encounter, the proponents of broad interpretation viewed the emergence of narrow interpretation as an inevitable sign of end times of the world. This prophetic thinking is not a mere rhetoric deployed to legitimise broad interpretation of *ribā,* rather it shapes the agency of these Muslims as they perceive the reality as unfolding of prophecies.

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[494] Ibid, 48.

# Conclusion

The theological discourse of the interpretation of *ribā* has been a contested issue across major Abrahamic traditions and it still continuous to be intensely debated subject in the Islamic tradition. This is due to the direct impact of a *ribā* interpretation on legitimising or delegitimising certain economic practices and relations, thereby safeguarding economic interests of certain sections of the society over others. Therefore along with the theological dimension, every interpretation serves a political purpose of either buttressing or undermining the economic interests of the lender or the debtor.

The dominance of the idea that human beings can objectively understand reality through their empirical experience and that the validity of knowledge solely rests on this empirical experience in modernity has radically affected the *ribā* discourse. With this turn of empiricism, a pervasive existence of a phenomenon in itself justified the phenomenon and, as seen in the last chapter, this perception has permeated in the theological discourse of *ribā* as well. This doesn't mean that historical contexts haven't influenced theological debates before modernity. Indeed every discourse evolves through complex interactions with the context it is situated in. However what is unique about modernity is that the knowledge derived from a particular experience of reality is in turn imposed on the reality with a clear intention to transform the world in accordance with that knowledge. This might have happened in pre-modern societies as well, but there is an enormous increase in the scale in which this process happens in modern times compared to the past.

The proliferation of modern financial institutions imposed by the colonialism has created an ambivalence among Muslim scholars on the legality of newly introduced financial practices. A direct response to this dilemma was the intensification of contestations over what *ribā* meant and these interpretations were contingent upon the situatedness of Muslim community as economically and politically inferior to the West. The deterioration suffered by the Muslim community might be one of the reasons for the consensus among the scholars on the need of Muslim community to be economically prosperous and Islam to be a practically relevant religion. Yet they disagree on the approach to achieve that end. While some scholars attempted to narrowly interpret *ribā* and thereby reconcile modern financial practices with Islam, others interpreted broadly and endorsed financial practices existing within Islamic jurisprudence for the economic wellbeing of the Muslim community.

In the early contestations on *ribā* in Kerala, there is a clear correlation between organisational affiliation of a scholar and his[495] interpretation of *ribā*[496]. The first attempt to legitimise banking in Islam was done by a faction of reformists. Their method of direct interpretation from primary texts without being constrained by legalities of any schools of Islamic jurisprudence, in contrast to traditionalists, facilitated imagination of banking within Islam. This reformist imagination of a bank for Muslims is closely tied with their socio-economic background. Their relatively superior socio-economic status within the Muslim community of Kerala, their familiarity with modern financial practices, and their access to reformist literature from other parts of Islamic world have influenced their conviction in the necessity of banking for the economic progress of Muslims. Specifically, the justification K. M Maulavi used to substantiate his attempt to evade *ribā* prohibition was the urgency of economic advancement of Muslims amidst the threat to Islam from other communities, particularly Christian missionaries backed by the colonial state. What is interesting in this postulation is that K. M Maulavi's attempt to protect Islam was built upon circumventing Islamic laws. The solution K. M Maulavi recommends to overcome the threat from the colonial other relied on adopting their method for economic prosperity. This tactic of K. M Maulavi is based on an underlying belief that wealth and power are necessary to regain the significance of Islam under colonialism.

Diverging from reformists, traditionalist and Islamist scholars endorsed narrow interpretation of *ribā* and denounced the existing banking system. While the traditionalist scholar K. C Maulavi proposed to follow financial practices in Islamic tradition, the Islamist, i.e., Maudūdī, attempted to construct a *Sharīʻah* compliant banking system. K. C Maulavi's interpretation was within the confines of *Shāfiʻi* School and it was in consonance with earlier dominant interpretations of *ribā* in *Shāfiʻi* School. In contrast to this, although Maudūdian interpretation of *ribā* was in consonance with *Ḥanafī* School, his imagination of an Islamic banking system is directly linked to the larger

[495] There was no female scholar worked on the interpretation of *ribā* in the chosen organisations for the study.

[496] The scholars mentioned in this paragraph haven't considered themselves as traditionalist, Islamist or reformist. These categories are developed later in academics to denote various approaches towards Islam developed during the colonial period. They imagined of themselves as followers of the most authentic version of Islam.

goal of Islamic state, which he envisioned to establish. Compared to K. C Maulavi, Maudūdī had greater exposure to modern financial practices and he recognised the role of banking in the advancement of the West. He wanted to utilise the new techniques of modernity for the economic enhancement of Muslims without compromising on *Sharīʻah.* However, as stated in the Introduction, the Islamic banking developed later on has always relied on the conventional banking as a reference point to evaluate itself. In the early contestations, there is a clear connection between organisations' method of interpreting primary scriptures and scholars' interpretation of *ribā.*

In contrast to this, the relationship between scholars' interpretation and the ideology of the organisation is much more fluid in the later contestations in the *ribā* discourse. For instance, the traditionalist scholar, Melmury, has cited works of many Islamist scholars to explicate the ill effects of interest on society. Similarly both traditionalist and reformist scholars, except Faizi, has endorsed construction of banking and financial institutions in accordance with the rules of *Sharīʻah.*

Another striking aspect of the later discourse on *ribā* is that no scholar has supported a retreat to Islamic financial practices in the exact way they were conducted in early periods of Islam. Rather, the scholars recognised complexities in the financial needs of Muslims living in modern world and they attempted to remodel the existing financial system to avoid its conflict with the precepts of *Sharīʻah.* The proliferation and integration of banking system into the lives of Muslims in the later period, particularly post liberalisation of Indian economy, might have resulted in the approach towards banking as an indispensable part of the economic lives of modern Muslims. Consequently the possible options of conducting finance reduced to conventional or Islamic banking[497]. Along with referencing Islamic jurisprudence and existing financial system, the process of constructing a *Sharīʻah* compliant modern financial system requires imagination of the world in novel ways. This imagination of Islamic banking, though not reducible to conventional banking, is intricately tied to conventional banking.

The analysis of the discourse of *ribā* in Kerala also reveals a close affinity between interpretation of *ribā* and the rhetoric deployed to justify that interpretation. Despite belonging to different

[497] There are many community based indigenous financial practices and modern micro-level interest-free financial initiatives run by Islamic organisations in Kerala. Since this aspect is outside the scope of this thesis, it hasn't been incorporated in the study.

organisations, K. M Maulavi and Musthafa Faizi have attempted to evade *ribā* prohibition by inventing 'legalistic trickeries' in *Sharī'ah.* The justification they provided for these legal innovations relied on the necessity of the economic wellbeing of the Muslim community. In their logic, the economic prosperity of Muslims is a more essential requirement for the survival of Muslim community than the commandments in the scriptures of Islam. From the perspective of scholars who interpreted *ribā* broadly, this logic may appear as a clear deviation from Islam caused by the material afflictions of this world. They often site the *Ḥadīth* reported by Ka'b bin 'iyāḍ, "*Indeed there is a fitnah* (trial) *for every Ummah* (community), *and the fitnah for my Ummah is wealth."*[498], to substantiate this allegation. Nonetheless, the scholars who invented trickeries don't perceive themselves as being corrupted, rather they believe that Islam can accommodate human needs in accordance with changes in time and space and these accommodations do not necessarily infringe the fundamentals of Islam.

This rhetoric contrasts to the rhetoric used by scholars who interpreted *ribā* comprehensively. Although they recognised the significance of the economic wellbeing of Muslims and attempted to prove that *Sharī'ah* based financial system is economically more viable than conventional (i.e., modern) finance, their fundamental justification of their interpretation is always rooted in reference to the finality of the commandments imposed by the transcendental entity. Acknowledging a realm beyond the immanent empirical reality was cardinal in the justification of their interpretations of *ribā.* This apocalyptic imagination of a realm beyond has contributed to resistance and thinking beyond the existing financial system. Although this imagination has a potential for resistance against the existing financial system, from the perspective of a believer[499], the primary intention is not resistance, rather it is submission to the transcendental entity. Resistance, according to the believer, is an inevitable outcome of this submission[500].

Another persuasive rhetoric used by scholars who broadly interpreted *ribā* to substantiate their argument is to project narrow interpretations and attempts to evade *ribā* prohibition as a sign of nearing of the end times already prophesied by the Prophet (ﷺ). This treating of narrow

[498] Muḥammad Ibn 'Īsa At-Tirmidhī, *Jāmi' At-Tirmidhī*, Book 36, Ḥadīṯ 33.

[499] Here the word believer denotes Muslim scholars who interpreted *ribā* broadly.

[500] This does not mean that scholars who narrowly interpreted *ribā* are not believer, rather the thesis only argues that the rhetoric they used to justify their interpretation clearly prioritised the concerns of the immediate reality.

interpretations of *ribā* as predestined, is not a mere rhetoric used to assert *ribā* prohibition, but it shapes Muslim perception of reality as unfolding of prophecies.

A major limitation of this thesis is that its understanding of the complexities in Muslim engagement with *ribā* has solely relied on theological contestations. Theological contestations are only one aspect of the *ribā* discourse. A comprehensive anthropological study of Muslims' practical engagement with *ribā* is required to unravel the intricacies of Muslim interaction with the financial system they are situated in.

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*by* Shahna P

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