
Return of loan and responsibility of Islamic government

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Abstract:

This paper presents the Islamic views on the return of loan and responsibility of Islamic government. Also presents different examples of issuing orders to return loans and to express values of returning loans on time from Islamic history.

This paper also describes the teaching of the prayers related to returning of loans. It explains in detail legal steps for returning of loan to morally stop from nonpayment of loans. This paper discusses steps and techniques to ensure return of loans and helping out helpless owed. Also the responsibility of Islamic government and an Islamic society regarding helping out helpless owed, deceased owed and advising relatives of the deceased owed to pay back the money to those who owe it. Furthermore, it also considers the conditions of getting help from Baitul Mal.

This paper analysis the status of the fine imposed on the delay in paying back the debts and its ruling in Islamic Sharia. At the end discuss the bank cards and its position in Islamic Sharia.

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Introduction:

Islam encourage helping other as there are many Ayat in the holy Quran regarding spending in the way of Allah (SWT) and helping the needy and poor “Therefore, (O believers,) give to your relative his due, and to the needy and the wayfarer (his due). This is the best way for those who seek Allah's goodwill: such alone will attain true success.”¹ Islam also encourages the rich persons of the society to give loan the needy and poor. Sayyidina Anas bin Malik related that the Prophet (SAW) stated: “During the journey of Me’raj, I saw written on the door of Jannah: ‘The one who gives charity is rewarded tenfold. The one who gives a loan is rewarded 18 fold.’ I asked Jibrail : ‘Why does the one who gives a loan get rewarded more?’ Jibrail replied ‘The one who gets charity (they usually possess a small amount already) and the one who seeks a loan only does so when he is in dire necessity.”²

So, in one side Islam encourages people to lend money and on the other side also advises the money borrower to pay off the liability as soon as possible. The borrower must make it clear beforehand, repayment time and how he wishes to repay the loan. This way will create ease for the lender to lend their money.

The person who takes his credit with repayment in mind, his loan will be paid within the specified time and he will be freed of this liability InshAllah. Those who take a loan with the intention of not paying off it, Allah will cause him degradation in this world and the hereafter. Sayyidina Abu Hurairah related that the Prophet (SAW) stated: “The person who takes wealth from people with the intention of repaying it, Allah will assist him in the repayment of that loan. The person who takes wealth from people with the intention of squandering it, Allah will cause him destruction.”³ It is not correct for the borrower to do Nafil Sadaqah or free slaves. But, it is most significant for him to struggle for the repayment of his liability as soon as possible.⁴

The Prophet (SAW) Companions were conscious of the forewarnings issued by the Prophet (SAW) for not being cautious in the loans repayment. So, they were very anxious of pay off their liability as quickly as possible. If for any cause, they were not able to repay a loan in their life, they would bequest to their families to pay off that liability immediately after their death. Sayyidina Abdullah ibn Umar related, The Prophet (SAW) stated: “All the wrongs of a martyr are forgiven, except his debts.”⁵“In the last moments of the life of Sayyidina Umar , after being stabbed in the Masjid of the Prophet (SAW), he (Sayyidina Umar) called his son, Abdullah ibn Umar (RA) and said to him: ‘The first thing you must be attentive to is the repayment of my loans. They are to be settled by my family. If they are unable to settle them, seek assistance from Adi bin Ka’b. If he cannot assist, seek help from the Quraysh.”⁶

Persuasion of return of loan:

In addition to the emphasized persuasion of lending and intense stress on beauty of the matter with the indebted person special attention has been given to the topic of the debt payment in Islam. In this regard, by the grace of Allah (SWT) following topics will be discussed;

1. Order of loan payment
2. Significance of loan payment
3. Preparation of loan payment before agreed time
4. Enlightenment of supplications helpful in loan payment
5. Moral refrainment from failure in loan

Order of loan payment:

In Islamic sharia, debt is a “Imanah” in the hands of the indebted person, which he has to return to the lender in the fixed time. Allah (SWT) said: “verily, Allah commands that you should render back the trusts to those to whom they are due.”⁷

Significance of loan payment:

In Islam, merely the order of loan payment is not considered adequate enough. In fact by explaining the significance of intending to pay the debt and paying it in an eminent way, the same is emphasized and encouraged. The Prophet (SAW) stated: "The best person is he who repays his loan in a beautiful manner."⁸

Blessings of the faithful intention of loan payment:

Following are four of the blessings of faithful intention of loan payment explained by Prophet Muhammad (SAW):

Help of Allah (SWT) in paying debt:

1. Imam Bukhar referred the narration of Abu Huraira (RA) about the Holy Prophet (SAW) that, Muhammad (SAW) said; "The person who borrows money (as loan) from people with the intention of paying back, then Allah (SWT) helps him in paying it."⁹
2. Hazrat Memoona (RA) that "I heard Muhammad (SWT) saying; "There is not a single Muslim who borrows loan and Allah (SWT) knows that he intends to pay it, but Allah (SWT) aids him to pay in this world."¹⁰

Having assistance of Allah (SWT):

Gaining a guardian from Allah (SWT):

Availing livelihood with ease:

1. Imam Ahmed referred the narration of Hazrat Ayesha (RA) that indeed she used to borrow loan, She was asked "why do you need to borrow loan?" She answered; 'Verily Muhammad (SAW) said; there is not a single person who intends to pay the loan, but he is aided by Allah (SWT)'.¹¹ I borrow loan only for the quest of the help.
2. According to another narration, "There is a helper and a guardian for him from Allah (SWT)".¹² And it is stated in Tibrani's narration that; "He has help from Allah (SWT) and Allah (SWT) grants him provision of resources for livelihood".¹³

A quality of finest people: Being best in remittance:

Prophet (SWT) said; "Indeed the best people are those who are the best in remittance."¹⁴

Endearment of Allah (SWT) for those who provide ease in payment:

It has been narrated by Abu Horrira (RA) that indeed the Prophet (SAW) said; "Surely Allah (SWT) loves those who provide ease in selling, buying and payment."¹⁵

Allah o Aakbar! Such great digging and slender of those who make exchange and payment easy, that the creator owner and the provider of the universe, Allah (SWT) love him. Oh Allah (SWT)! Make us one of those blessed people. Ameen! And undoubtedly, the one who delays the payment of loans complexities and torment, rather than creating ease. May Allah (SWT) retain us from becoming one of them?

Preparation of loan payment before agreed time:

Prophet Muhammad (SAW) has also drawn the attention of the Ummah towards the fact that preparations should be made beforehand before the payment of loan on the exact time. Imam Bukhari referred the narration of Hazrat Abu Zar (RA) the he accented; 'I was with prophet Muhammad (SAW) when Prophet (SAW) the mountain Ahad he said; 'I won't like that mountain turned to gold me and even a single dinar remains with me for more than three days except the dinar which I keep prepared for payment of loan''¹⁶

From this hadith, we become aware of the preparation and arrangement of loan.

Enlightenment of supplications helpful in loan payment:

The extreme importance of payment of loan in Islamic Sharia is made more explicit by the fact that our prophet (SAW) taught his Ummah several supplications regarding it.

Out of those, three supplications are given as follows;

1. Imam Tirmizi referred a narration from Hazrat Ali (RA) that a scribe (person who signs a contract in exchange of freedom of serving or some money) came to him and said I have become helpless in paying the decided price for acquiring freedom, therefore cooperate with me.” Hazrat Ali (RA) said, “Shouldn’t I teach you those words which the prophet (SAW) taught me? If you are responsible paying loan equivalent to the mount Seer then Allah (SWT) will help you because of these words then he taught the scribe these words;

اللهم اكفني بحلالك عن حرامك واغنني بفضلك عن سواك

“Oh Allah! Suffice me with Your halal (lawful) instead of Your haram (unlawful), enrich me with Your favors, and make me independent of everyone except you.”¹⁷

2. Imam Tibrani referred the narration Anas Bin Malik (RA) that he accounted the prophet Muhammad (SAW) told Muaz (RA) “Should I teach you I supplication that if you have to pay a loan as much as the mount of Ahad and if you please Allah (SWT) with this supplication then Allah (SWT) will pay it from you.”

“O Allah (SWT)! Possessor of the kingdom, you give the kingdom, to which you will, and you take the kingdom, from which you will, and you endure with honor that you will, and you humiliate whom you will. In your hand is the good. Verily, you are able to do all things. The Most merciful the Most Gracious of the world and the hereafter! You grant them both to those who you will and you stop them both from those who you will. Grant me such blessing that with it make me independent of everyone blessing except you”¹⁸

3. Suhail (R.A.) reported that whenever one of us would intend to sleep, Abu Saleh (R.A.) would command us to lie on the right side and say: “O Allah! Rabb of the heavens, and Rabb of the earth, and Rabb of the great throne, our Rabb and Rabb of everything, One who cleaves the grain and the seed, and One who sent down the Torah and the Gospel and the Criterion, I seek refuge from the evil of everything You have grasped by their forelock. O Allah! You are the first and there is nothing before You, You are the final and there is nothing after You, You are the Ascendant and there is nothing above you, and You are the Intimate and there is nothing besides You. Remove from us our debts and enrich us against poverty.”¹⁹

Moral refrainment from failure in loan:

Default on the part of a Debtor:

The debtor must settle his debt when it is due. Default in payment by a debtor who is able to settle the debt is prohibited. The Prophet (SAW) says: “Default in payment on the part of a solvent debtor is unjust”.²⁰ He (SAW) also says: “Delay in payment by a solvent debtor would be a legal ground for his being publicly dishonored and punished.”²¹

Muslim scholars have agreed on the permissibility of a debtor being punished in such circumstances. However, an insolvent debtor should be granted a grace period.

Helping the helpless owed:

Sometimes the owed fails to pay the debt despite much effort. Islam on one hand asks the moneylender to be lenient in his demands for the pay back of the debt and motivates him to give the owe as much extension as possible and if possible for him to forgive some or total of the debt under dire situations and on the other hand it also

motivates the relatives of the owed one, the common Muslims of the society and the government to help the owed one in different forms. The Allah (SWT) says in the Holy Qur'an: "And if (the debtor) is in straightness, then let there be postponement until (he is in) ease, and that you remit (it) as alms is better for you, if you knew."²²

Ibn Umar (RA) reported: Messenger of Allah (SAW) said "A Muslim is a brother of another Muslim. So he should not oppress him nor should he hand him over to. Whoever fulfills the needs of his brother, Allah will fulfill his needs, whoever removes the troubles on the Day of Resurrection. And whoever covers up the fault of a Muslim, Allah will cover up his fault on the of Day of Resurrection."²³

The help form an Islamic society:

The holy Quran considers such people among those upon whom compulsory Zakat amount can be spent who fail to pay their debt despite their full efforts. Quran says that:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ²⁴

"Charities are for the poor, and the destitute, and those who administer them, and for reconciling hearts, and for freeing slaves, and for those in debt, and in the path of God, and for the traveler in need-an obligation from God. God is All-Knowing, Most Wise."^(9:60)

While discussing *وَالْغَارِمِينَ* and those who fall under this category, Imam Qurtabi writes that: They are such people who are heavily buried under debt and who now lack the capacity to pay their debt back. But it is not permitted to help such person either from the amount of Zakat or any other head who has borrowed money for acts of stupidity. he can be helped out from such situation only if he repents from what he has done. Otherwise he is not supposed to be helped out.²⁵

Similarly, Qazi Abu Saod writes that they (the owed ones) are such people who have borrowed money for themselves in order to fulfill their righteous desires and needs and not those who have borrowed for unlawful acts with the additional condition that if they are not left with the amount upon which Zakat is imposed. It means that such people can be helped out by the society in the paying back of debt with whom, after the back their debt; no Zakat able amount is left. If they still possess such amount then they also cannot be helped out.²⁶

In a tradition of the holy prophet (SAW) it is narrated that a man purchased a garden or orchard of fruit but he met with loss in that orchard. So, he came under a lot of debt and was unable to pay his debt back. They holy prophet (SAW) asked his companion to spend money on him and help him out. People did so but he still could not manage the required amount. So, the prophet (SAW) asked the lenders to take what was available with him and that there was not any more for them.²⁷ It means that the holy prophet (SAW) stopped the owners of the orchards and lender from teasing him anymore and that to contend with what was available for them.

Motivating relatives to the debt of the late owed persons:

It is proven from the holy prophet (SAW) that he motivated relatives of the late owed person to pay their debts back even after they are dead.

Hazrat Samra (RA) narrates from the holy prophet (SAW) that he addressed them and asked if some person of the certain tribe was present there in the gathering. None replied. He repeated the same but none replied again. The holy prophet (SAW) asked for the third time and then a person from the gathering stood out. The holy prophet (SAW) asked him what stopped him from answering the first two calls. Then he said that he mentioned people only for their good and said that no doubt his dead fellow was halted because of the debt he owed to people. Hazrat Samrath (RA) says

that I witnessed that the person paid all the debt on behalf of him till no debt was left.²⁸

In another tradition of the prophet (SAW) he said that it is up to you. If you like then pay the debt on the behalf of the dead and save him or if you want then leave him to Gods punishment.²⁹

So, through this the holy prophet (SAW) motivated the tribe fellow of the dead person to pay the debt of the dead back.

Responsibility of the Islamic government regarding the helpless owed:

Among multiple responsibilities of the Islamic government, paying back the debt of helpless owed is one important responsibility. Government should help the helpless people pay their debts back.

Imam Bukhari and Imam Muslim has narrated with reference to Abu Huraira (RA) "that whenever a dead body of owed person was brought before the holy prophet (SAW) he (SAW) would ask if the deceased has left sufficient amount to pay the debt back. If the he (SAW) would be told that yes he has left sufficient amount then he (SAW) would offer his funeral otherwise he (SAW) would advise his companions to offer the funeral of the deceased. With the passage of time Allah blessed him with conquests and much wealth was brought as a result. So, he (SAW) said that I owe Muslims more than their own lives. So, I will be paying their debts from now on wards and in case the deceased has left something that would be distributed among his hairs."³⁰

Conditions to get help from Baitul Mall:

It must be clear in the minds of the readers from the very outset that from what we have mentioned earlier or going to mention below we do not at all mean that people are allowed to borrow lavishly, destroy the wealth of others and once they are dead their debts may be paid by the society, government and or Baitul Mall. It is not at all the case. There certain conditions to get help from Baitul Mall in order to pay the debt of the deceased back. They are as follows.

There should be reasonable cause behind getting loan:

Baitul Mall will only be responsible to pay back the loans of the helpless owed who have taken loans for some good purpose which is permitted in Islamic Sharia and who have tried to utilized the loan in the best possible way. Those who have lavishly misused the debts are not considered in this category. This condition is supported by the orders which Hazrat Umer Bin Abdul Aziz has issued to Abdul Hamid, the ruler of Iraq. According to that order he stated that Baitul Mall should be used to pay the debts back of those who have properly utilized the loans they had obtain in their life time but somehow failed to pay it back and not for those who have lavishly misused the loan obtained.³¹

Best possible efforts from the owed to pay back his debt:

The second condition for getting help from Baitul Mall is that it should be done only after the owed had done his best possible efforts to back his debts back. If he has done so and failed to pay it back only then help should be extended to him after he is dead and is no more in passion to make any attempt to pay his debt back. Imam Ahmad has quoted with reference to Hazrat Aysha (RA) that the holy prophet (SAW) had said that "I will be responsible to pay the debt back of such member of my ummath who had taken loan and then put his full efforts to pay it back but failed to do so during his life time."³²

The presence of wealth in Baitul Mall:

The third condition to get help from Baitul Mall is that there must be some wealth there in the possession of Baitul Mall. How can one are extended help from Baitul Mall if there is not possession available in the custody of Baitul Mall. If it is lying

blank or no sufficient amount is there then one cannot expect to get help from there. In the life time of the holy prophet (SAW) when no wealth was available in the Baitul Mall then the holy prophet (SAW) would ask his companions to donate money and to generate other resources to pay the debt of the deceased back. But once the wealth came to him after conquers, he would not ask people but would use the wealth of the Baitul Mall instead of it for the cause.³³

The Islamic status and standing of the punishment imposed on delay or nonpayment of loans:

Some scholars and thinkers have suggested some punishments in case there is delay in the payment of the loan. I will discuss this issue in the following:

Punishment in case of delay in the payment of the loan:

Some people raise the question that if there can some punishment be imposed in case of the delay in the payment of the loan. In other words can an owed be forced to pay back more than what he has obtained as loan? Is it permitted in Islam or not and what is the status of such steps?

It is pertinent to clear the meaning of punishment before moving ahead. What is meant by punishment and the amount payable as punishment? Any amount other than the capital amount payable because of the time frame is interest and interest is categorically prohibited in Islam. Some scholars are of the opinion that the punishment should be imposed upon the delay and particularly to stop the routine of deliberately delaying the payment but the amount of punishment should not go the lender of the amount. It should rather be spent on public welfare. Dr. Mustafa in this regards says that punishment should be imposed in case of delay in the payment. (That will stop the habitual nonpayers of the debts.) Since there is doubt whether the amount of the punishment, which is naturally other than the capital amount, is Halal or Haram, the amount should not go to the moneylenders. It should rather be spent on welfare activities.³⁴

Those who have the same point of view are of the opinion that the amount of the punishment or fine cannot go the moneylender or lender because it falls under interest which is Haram. Now if one cannot receive the amount of interest how can one be made to pay interest. Paying and receiving of interest both are Haram. The tradition in which the holy prophet (SAW) has cursed the receiver of the interest also curses the payer of the interest. So, both the people are cursed in the same tradition of the holy prophet (SAW). According to the holy prophet (SAW) both the receiver and payer of the interest are cursed ones.³⁵

There certain moral and legal steps permitted in the Islamic Shari in order to ensure timely payment of the debt. They are

1. Nonpayment or delay in payment is considered a crime and cruelty.
2. The habitual employer of delaying tactics is considered as Fasiq and his/ her witnessed is rejected.
3. Insulting such person is permitted.
4. Imprisonment is permitted.
5. Ban on travelling.
6. Ban on using self-wealth till the time the debt is paid.
7. Selling out of the guarantee.
8. More rights of the lender on the wealth of the owed person than the person himself.
9. Acting upon the written witness or *وصيت* only after his debt is paid off.
10. Division of left overs only after the payment of debts.

11. Appointment of a guarantor at the time of agreement of debts etc.36

Bank Cards and their religious status:

Talking about loan, perhaps it is important to reflect on the current practice of dealing through bank cards. In this regard, the discussion has been presented in two parts

1. Introduction to Bank Cards.
2. Religious status of Bank Cards.

Introduction to Bank Cards:

There are several ways provided to customers by bank for receiving cash and render case for trading through cards. Three of them are stated as follows:

1. Debit Card.
2. Charge Card.
3. Credit Card.

Debit Card

1. Card for drawing money from one's account.
2. This card is given by a bank to only those people who have an account in the respective bank with funds available in his account.
3. These people are given the right to draw money as much as carried by their account and to purchase from specific trade centers through cards.
4. Normally there is no compensation by the bank for the usage of this card.
5. From whichever trade Centre, a customer purchases from, the bank immediately transfers money from the customer's account to the respective trade center's account.

6. The bank deducts money while making payment to these trade centers.37

Charge Card:

1. For the activation of this card, it is not necessary to have an account in the bank.
2. The card holder is given the liberty to purchasing till a specific limit and from specific trade centers.
3. On receiving the bill of the purchasing of card holder, the bank immediately makes the payment. These bills have the signature of the customer.
4. The bill from the trade centers is deducted in a specific rate by the bank.
5. The bank provides the facility of paying the bills without any increase of the paying bills to the card holder till a specific period.
6. When the payment is not made within the specific period, the bank starts to receive interest for the card holder in a specific rate.³⁸

Credit Card:

The feature of this is similar to those of the charge card, except that the bank starts receiving interest as soon as the respective bank makes the payment.³⁹

Religious status of bank cards:

By the grace of Allah (SWT) the explanation of the religious status of all three kinds of bank cards is given below.

Religious status of Debit Card:

The owner of this card purchases while remaining in the limits of the cash present in this account. The bank makes the payment to the trade center according to his purchase. The bank does not pay anything on its own to the trade center. In this condition, there is no case of borrowing or lending loan between the bank and the card holder. The deduction or commission received by the bank is not related to the interest in any way because there is no lending or borrowing debt in this case, then of

course, taking interest is not possible. However, it is very important that the account of the card holder start to be a current account and it should not be involved in interest in any way.⁴⁰

Religious order about Charge Card:

The card holder is bound to pay interest on the payment made to trade center from the bank after the specified period, whatever matter has an involvement of interest, and there is not even a chance of little doubt in its prohibition. In accordance to this, following Ayat has been stated;

Interest is opposing to Iman:

Allah (SWT) says, "O you who believe! Be an afraid of Allah and give up what remains (due to you) from Riba (usury) (from now onward), if you are (really) believers"⁴¹. Allama Al Harali states that; "Allah (SWT) explained in the Ayah, that indeed Riba and Iman cannot coexist."⁴²

Declaration of war from Allah (SWT) and prophet (SAW) for the one who does not leaves Riba:

After the stated Ayah, Allah (SWT) said: "And if you don't do it, then take notice of war from Allah and His Messenger (SAW)."⁴³

Religious order about Credit Card:

The first two things stated about the charge card are integrally present in debit card. The third error, from which it is difficult to refrain, is definitely present in the use of debit card, because the person who uses it becomes bound to pay interest on loan since the day of purchasing. On this basis, this card from beginning is absolutely forbidden.⁴⁴

Summary:

A Muslim person is permitted to take an interest free loan if and only if he/she is in dire need and cannot find any suitable and lawful means of attaining the money. But, it is forbidden to borrow for the fulfillment of wants that are not essential such as borrowing money to purchase brand new and lavish car etc.

Borrowing money is also not permissible if the individual or borrower has the intention of consuming this money to pay or finance for something unlawful, such as borrowing to gamble or to purchase beer or to finance haram industry.

The borrower should be careful to only take money that is generated or earned by halal or lawful resources. Thus, borrowing from a bank that operates in interest is not permitted. Likewise, if the money is earned legally, but borrowed illegally, it is not permissible.

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