
The Concept of Public Borrowing in Islam

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Abstract

Public borrowing is an essential source of income for state in the Islamic and conventional economy now days. But the question arises that borrowing is allowed in Islamic shariah or not. This paper discussed the different meaning of borrowing from Scholars point of view. Also examines the conditions/ rules and scope of borrowing in Islam. By defining the Responsibilities of borrower and lender, discuss does Islam encourage/di scourage borrowing money?

This paper also gives different examples of borrowing from early Islamic history .Al-Ghazali view about the public borrowing as a source of revenue, in addition to taxes and other levies. Also deliberate the legal steps for refund of debt and the responsibility of the Islamic Government. At the end, discuss Sharia proposed punishments on delay of repayment of loan

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Introduction:

In spite of time, the individuals and government cannot attain their own wants or their commercial goals in the limited means they have. So taking of a loan is not something that persons or government would do without need, to make a liability upon them. When it is essential, then populaces should seek to help their families and Muslim members, according to one's ability. It was narrated from Buraidah Al-Aslami that the Prophet ﷺ said: "Whoever gives respite to one in difficulty, he will have (the reward of) an act of charity for each day. Whoever gives him respite after payment becomes due, will have (the reward of) an act of charity equal to (the amount of the loan) for each day."¹

On the other hand, it also is not proper for the borrower to make Nafil Sadaqah or free slaves. However, it is more essential for him to struggle to settle down his liability as rapidly as possible.² There are such severe cautions in the Ahadith with respects to those who exploits the resources of others. This is for those entrepreneurs who run industry, take a loan from bank to fill their needs and then announce bankruptcy, writing off all the cash they have borrowed and stored away.

Loan and its Religious Prestige:

Talking about loan it is very important to know about the explication of loan, its religious prestige and its circle. By the Grace of Allah (SWT) these points will be discussed.

Explication of loan:**Literal meaning:**

القرض is an Arabic word and it means to cut

To pass from a certain place is also known as القرض

Allah (SWT) says: "And when it (the Sun) sets, turning away from than to the left."³

Religious meaning:

According to the Jurisprudence, Qard means to give something on the condition that it must be returned.

Qard could be defined as "an interest-free loan for deprived debtors prolonged on a benevolence basis; in specific Qard al Hasan provides resources for welfare and humanitarian objectives without any return accruing to the owner. Qard is only applied when one gets indebted to return the same of the object taken and refund is for the equal amount as the amount borrowed. Things of the same kind will be returned on request or at the mature period. It should not bring any addition or yield to the mortgagee because that would be the same to taking Riba."⁴

Religious Prestige of Loan:

Many narrations and apparently different ones have been transpired about taking loan. In some narrations, it has been mentioned about the Holy

Prophet (SAW) and his companions that they borrowed loan and in others it has been showed unappealing. Regarding this by the Grace of Allah (SWT) following five topics will be talked about:

1. Narrations about borrowing loan
2. Narrations about the unlikability of loan
3. Shall loan be borrowed or not
4. Rules for borrowing loan
5. Conditions of borrowing loan

Narrations about borrowing loan:

Loan borrowing by Prophet Muhammad (SAW):

Our Prophet (SAW) borrowed loan in his private needs as the head of the state and the leader of all Muslims he established at Madinah severed times.

1. Narrated by Imam Nisai and Imam Ibn-e-Maja from Hazrat Abdullah Bin Abi Rabia Makhzumi (RA) he accounted; "Prophet Muhammad (SAW) borrowed forty thousand from me as loan. Then (when) he received money, he paid me and said "May Allah (SWT) bless you in your family and your wealth. Indeed, the payment of loan is the appreciation (of lender) and returning it."⁵
2. Abu Rafi' reported that Allah's Messenger ﷺ took from a man as a loan a young camel (below six years). Then the camels of Sadaqa were brought to him. He ordered Abu Rafi' to return to that person the young camel (as a return of the loan). Abu Rafi' returned to him and said: I did not find among them but better camels above the age of six. He (the Holy Propet) said: Give that to him for the best men are those who are best in paying off the debt."⁶
3. Abu Hurairah said: The Prophet ﷺ sent Umar bin al-Khattab to collect sadaqa (All the people paid the zakat but ibn-jamil, Khalid bin al-walid and al-abbas refused. So the Messenger of Allah ﷺ said: Ibn-jamil is not (so much) objecting, but he was poor and Allah enriched him. As for Khalid bin Walid, you are wronging him, for he has kept back his courts of mail and weapons to use them in Allah's path. As for al-Abbas, the uncle of the Messenger of Allah ﷺ, I shall be responsible for it and an equal amount along with it. Then he said did you not know (Umar) that a man's paternal uncle is of the same stock as the father or his father?"⁷

Loan borrowing by the companions of Prophet (SAW) in his rule:

In the rule of Prophet (SAW) and even after him his companions borrowed and landed. One of the ahadeeth explained in this regard is

narrated by Imam Muslim from Kaab Bin Malik (RA) that ; “ Indeed in the reign of Muhammad (SAW) he demanded Ibn Abi Hadard (RA) to return his loan in the Mosque. Both their voices (of argument) were raised, till Prophet Muhammad (SAW) heard than in his house. Prophet Muhammad (SAW) went towards them and he withdrew the curtains of his room and called out to Kaab Bin Malik (RA). Ya Kaab! ‘ He said ‘O Prophet (SAW) of Allah (SWT), I am present. “Prophet Muhammad (SAW) gestured him with his hand that leave half of your loan. Kaab (RA) said; O Prophet (SAW) of Allah (SAW), I have done” Prophet (SAW) told Ibn Abi Hadrad (RA) “Get up and pay his loan”⁸

Loan borrowing after the rule of Holy Prophet (SAW):

The following incident is mentioned in this regard;⁹

1. The regional chief of public borrowing needs occurred during the rule of ‘Umar bin Abd Al ‘Aziz (99-101 A.H/715-717 A.D.). “The officer, Hayyan bin Shuraih borrowed the amount of twenty thousand dinars from one .Harith bin Thabita to finance insufficiency in repayments to those registered (*ahl alDiwan*). He wrote to the *Amir al Mumineen* requesting him to arrange payment to the lender.”¹⁰
2. Most possibly during the years 58-59 A.H., "Sa'id bin al ‘As (d. 59 A.H.) the governor of Madinah during the rule of Amir Mu'awiyah (41-60 A.H./661-680 C.E.) borrowed to nourish persons during a food crisis, having first bushed all the resources in the treasury of public.”¹¹

Narrations about the unlikeability of loan:

There are certain Ahadeeth from which it is known that in normal condition, borrowing loan is not likeable. Following are two narrations in this regard;

1. Imam Bukhari (RA) referred to a narration of Ayesha (RA): Indeed Prophet (SAW) used to pray in his Salah that; “O Allah! Indeed I seek refuge of you from sins and loan. “Someone asked him; “O Prophet (SAW), you seek refuge from loan very much? Prophet (SAW) said; indeed when a man is indebted; when he speaks, he lies and when he takes a vow, he breaks it.”¹²
2. Imam Uisai referred to a narration from Abdullah Bin Unru Bin Ali (RA) that; Indeed the Prophet (SAW) prayed with these words; “O Allah! I seek refuge of you from the menace of loan, the domination of the enemy and mocking of the enemy.”¹³

Shall loan be borrowed or not:

Islam teaches individuals and nations to support and offer their services and wealth to the needy and poor when they have financially able and have additional wealth. As Narrated `Abdullah bin `Umar: Allah's Apostle said, "A Muslim is a brother of another Muslim, so he should not oppress him, nor should he hand him over to an oppressor. Whoever fulfilled the needs of his brother, Allah will fulfill his needs; whoever brought his (Muslim) brother out of a discomfort, Allah will bring him out of the discomforts of the Day of Resurrection, and whoever screened a Muslim, Allah will screen him on the Day of Resurrection."¹⁴

The Qur'an and the saying the Prophet (SAW) encourage Muslims to lend money to each other.

1. Allah assures the loaner many good payments as mentioned in 2:245: "Who is it that would loan Allah a goodly loan so He may multiply it for him many times over? And it is Allah who withholds and grants abundance, and to Him you will be returned."¹⁵

2. It was narrated from Anas bin Malik that the Messenger of Allah ﷺ said: "On the night on which I was taken on the Night Journey (Isra), I saw written at the gate of Paradise: 'Charity brings a tenfold reward and a loan brings an eighteen fold reward.' I said: 'O Jibril! Why is a loan better than charity?' He said: 'Because the beggar asks when he has something, but the one who asks for loan does so only because he is in need.'¹⁶

3. Hafiz Ibn-e-Hajar stated that; "It is said: It means taking loan for illegal things, and such a loan borrowed for a legal things, whose return is out of his capacity."¹⁷

Al-Ghazali view about public borrowing:

According to Al-Ghazali, public borrowing as a basis of revenue is allowed in addition to taxation and other imposes. He says, "One cannot reject state owner permission to borrow from the public when the requirements of the state so necessitate. However, the question is: if the leader does not anticipate returns in the public treasury which would exceed what is required for the public officials and armies, then on what basis can the resources be borrowed?"

Thus, al-Ghazali permits public borrowing as long as it is possible to make certain reimbursements from upcoming proceeds flows. So in simple words we can say that public borrowing may be allowed provided such a performance of the government is justified by the current and expected economic situations.

Rules for borrowing loan:

The longest Ayat in the Qur'an is known as Ayat ud Dain (The Debtor of the Loan):

“O you, who have believed, when you contract a debt for a specified term, write it down. And let a scribe write [it] between you in justice. Let no scribe refuse to write as Allah has taught him. So let him write and let the one who has the obligation dictate. And let him fear Allah, his Lord, and not leave anything out of it. But if the one who has the obligation is of limited understanding or weak or unable to dictate himself, then let his guardian dictate in justice. And bring to witness two witnesses from among your men. And if there are not two men [available], then a man and two women from those whom you accept as witnesses - so that if one of the women errs, then the other can remind her. And let not the witnesses refuse when they are called upon. And do not be [too] weary to write it, whether it is small or large, for its [specified] term. That is more just in the sight of Allah and stronger as evidence and more likely to prevent doubt between you, except when it is an immediate transaction which you conduct among yourselves. For [then] there is no blame upon you if you do not write it. And take witnesses when you conclude a contract. Let no scribe be harmed or any witness. For if you do so, indeed, it is [grave] disobedience in you. And fear Allah. And Allah teaches you. And Allah is Knowing of all things.” (2: 282)¹⁸

It is the instruction of the Holy Qur'an, when ones deals on basis of loan with other, whether it be for large or small sums, it should be written down in a agreement. Also, if conceivable this contract should occur in presence of two witnesses, so that there is no clash in future. Some Researchers says it is desirable and some says it obligatory to write down a loan contract. If for any cause, in the future there is a clash; this written paper can be produced as evidence.

Conditions of borrowing loan:

The study of the statements of respect Mhaddithien and sereral Ahadeeth reveals that there are certain conditions for borrowing loan. By the grace of the Allah and with my limited knowledge, three of the conditions are stated below;

Genuine reason for borrowing loan:

To borrow loan, there must be a genuine reason, because on the Day of Judgment, it would be questioned. Imam Ahmed referred a narration of Abdul Rehman Bin Abi Bakr (RA) that indeed the Prophet (SAW) said; Allah (SWT) will summon the debated person on the day of Resurrection, till he is face to face with him, then he will be asked; “ O son of Adam! Who did you borrowed this loan from and for what reason you wasted the rights of the people.” He will answer: “O My Lord! Truly you know that surely I

borrowed it but I did not waste it on eating, drinking and wearing and neither wasted it anywhere else, in fact I met the misfortune fire, robbery and loss in business.” Allah (SWT) will say; “My servant said what is true. Today I am more entitled to pay his loan.”¹⁹

Sincere intention of paying loan:

The second condition barrowing loan is that, the barrower should have a sincere intention and strong determination of paying the loan back. Without this, the barrower makes himself the target of Allah’s anger.

1. Allah clearly mentioned in the Holy Quran about this; “Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing.”²⁰
2. Sayyidina Abu Hurairah related that the Prophet stated: “The believer’s soul is withheld until the repayment of his debt.”²¹
3. Narrated Salama bin Al-Akwa: A dead person was brought to the Prophet so that he might lead the funeral prayer for him. He asked, "Is he in debt?" When the people replied in the negative, he led the funeral prayer. Another dead person was brought and he asked, "Is he in debt?" They said, "Yes." He (refused to lead the prayer and) said, "Lead the prayer of your friend." Abu Qatada said, "O Allah's Apostle! I undertake to pay his debt." Allah's Apostle then led his funeral prayer.”²²
4. Narrated Abu Huraira: The Prophet said, "Whoever takes the money of the people with the intention of repaying it, Allah will repay it on his behalf, and whoever takes it in order to spoil it, then Allah will spoil him.”²³

Possibility of paying in future:

For the purpose of borrowing loan for legal things, it must be kept in mind that there is a possibility of returning it in future. It is not rightness to borrow loan neglecting this condition.

The individual who is not in a state to pay off his loan must essentially have the aim to pay off it as quickly as possible. This objective should have the main concern with him.

1. “Suhaib Al-Khair narrated that the Messenger of Allah ﷺ said: “ Any Man who takes out a loan, having resolved not to pay it back, will meet Allah (Subhanahu-wa-Taala) as a thief.”²⁴
2. Narrated Anas: That the Messenger of Allah ﷺ said: "Dying in the cause of Allah expiates every sin." Jibril said: "Except for debt." So the Messenger of Allah ﷺ said: "Except the debt.”²⁵

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.”²⁶

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.

Abu Rafi' reported that Allah's Messenger ﷺ took from a man as a loan a young camel (below six years). Then the camels of Sadaqa were brought to him. He ordered Abu Rafi' to return to that person the young camel (as a return of the loan). Abu Rafi' returned to him and said: I did not find among them but better camels above the age of six. He (the Holy Propet) said: Give that to him for the best men are those who are best in paying off the debt.”²⁷

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. The Prophet said, "Whoever takes the money of the people with the intention of repaying it, Allah will repay it on his behalf, and whoever takes it in order to spoil it, then Allah will spoil him.”²⁸

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?” So 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)’.

²⁹I 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)”. ³⁰And it is stated in Tibrani’s narration that; “He has help from Allah and Allah (SWT) grants him provision of resources for livelihood’.³¹

A quality of finest people: Being best in remittance:

Prophet (SWT) said; “Indeed the best people are those who are the best in remittance.”³²

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.”³³

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. Narrated Abu Huraira: Allah's Apostle said, "If I had gold equal to the mountain of Uhud, it would not please me that it should remain with me for more than three days, except an amount which I would keep for repaying debts."³⁴

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 favours, and make me independent of everyone except you." ³⁵

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 endue 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”³⁶

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.”³⁷

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".³⁸ He (SAW) also says: "Delay in payment by a solvent debtor would be a legal ground for his being publicly dishonored and punished."³⁹

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.

It is not correct for the debtor to perform Nafil Sadaqah or free slaves. However, it is more important for him to strive to settle his debt as quickly as possible.⁴⁰

Summary:

At the time of taking a loan, the borrower should be strictly concerned to pay off the loan within the agreed time. If the borrower cannot pay off the loan in a lump sum, he should make it clear earlier, how he wants the repayment of loan. In this manner there will be no trouble placed upon the moneylender. The person who takes his debt with these options in notice, his debt will be pay off within the required time and he will be freed of this liability InshAllah. Those who take a debt with a bad purpose, Allah will cause him dishonor in this world and the hereafter. Sayyidina Abu Hurairah related that the Prophet stated: "The individual 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."⁴¹

At the end few requests from the borrower: 'Be careful! Do not take a loan without essential need. If you ever have to take a loan, then must have the strong aim and make struggle to pay off it. And for this purpose take help from supplication of the Prophet (SAW) for paying off debt and make Dua from Allah (SWT).

Also few requests from the rich persons of the society: They should give loan to the needy persons. Create flexibility and ease in return of debt. Give relaxation to the poor and helpless borrowers, if possible, forgive the debt or partially forgive them. Do not make any other case with a loan such as case of purchase, case of rent transaction. Do not matter about taking a service from the borrower, and do not impose any restriction with loan, that through this receive things or benefits from the borrowers

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