



LAWS OF TRANSACTION

JURISPRUDENCE

Senior LEVEL

Objectives >>>

Students should:

- Understand the Islamic recommendations for work
- Understand the main types of business which is not allowed in Islam
- Understand some examples of business practices forbidden by Islam
- Understand that Islam strictly forbids usury
- Discuss the issue of 'interest' in today's finance world and how this relates to Islamic laws

Lesson 1: Working in Permissible Businesses

As we have seen throughout this syllabus over the last several years, Islam is a religion that covers all aspects of life. A significant part of all our lives are business transactions: we all work, buy, sell and hire things. Islam has set out rules for all these transactions. These rules are in place firstly to protect us from the harmful effects of some things, and secondly to maintain justice between people and stop exploitation.

ISLAMIC URGES US TO WORK!

The first issue to discuss is that Islam encourages all people to work, unless they are somehow unable. Anyone who can, is expected to work, and we are encouraged to establish ourselves in a financial sense as well, and keep a balance between the spiritual and material life. The Ahlul Bayt (as) say:

“Those who sell their Hereafter for this world are not from us, and those who sell their world for their Hereafter are also not from us.”

This point is also indicated by the Holy Qur'an, wherein the following people are praised:

“Men whom neither trade nor sale diverts them from the Remembrance of Allah” (24:37)

Here, the Holy Qur'an implicitly praises those who actually have a business and who still take time out to pray. In fact, Imam al-Şādiq (as) says that such people have more reward for praying on time than those who

have no business and are unemployed and thus do not find it difficult to attend prayer.

The Holy Qur'an also states:

“Once the prayer end, then spread out on earth and seek Allah’s Bounty” (62:10)

Further to this, Imam ‘Ali (as) says:

“Attend business, because will make you needless of what is in people’s hands.”

In fact, the Imams (as) have said that

“Allah loves a person with a professional skill, who is trustworthy”

In another narration, Imam al-Ṣādiq (as) asked a person:

“Why have you not gone to Hajj?”

The person answered: “I cannot afford it!”

The Imam (as) said: “then work harder so you can afford it!”

In fact, Imam Musā al-Kāḍim (as) says:

“A person who works to keep his family from becoming needy to other people is like the one who engages in Jihād for the sake of Allah”

The Prophet (saw) also says:

“Worshipping God has seventy portions, and the most virtuous of those is to seek (sustenance through) Ḥalāl”

In Islam, any job is respected and encouraged, as long as it is ḥalāl, even if it is seen to be trivial or lowly by people. Similarly, any job which involves ḥarām, no matter how prestigious, is despised and forbidden.

It is clear then, that being lazy and deliberately avoiding work when one is able goes against the recommendations of Islam. As Muslims living in the West, we should not be the kind of people who sit at home and claim welfare payments from the government, especially if this means having to be dishonest. Instead, we should amongst the hardest working people.

Finally, Islam recommends that we make a decent living. This means we should not become greedy in seeking wealth, and to not become workaholics. In addition, we should never engage in any ḥarām acts when doing

business- it is better to lose money than to something ḥarām to gain it.

IMPERMISSIBLE BUSINESSES

While Islam strongly encourages us to work, there are some types of business which are strictly forbidden. These are business which cause harm to society and its members, either physically or mentally. Here, we will discuss the main types of these business.

ALCOHOL

Any transaction related to alcohol is haram. The seller, maker and transporter of wine are all cursed by God, and we have to make sure we have nothing to do with any alcoholic products.

AL-MĪTAH

- *al-mītah* is any animal that is not slaughtered in an Islamic manner. Wealth gained through selling the meat, skin or other products from such an animal is ḥarām in general.
- We cannot sell any types of *mītah* to Muslims under any circumstances. Again, this includes the meat, fat and skin (and the leather made from it) of that animal.
 - Wool is not included in this rule.
- If the *mītah* is Najis (for example a cow not slaughtered in an Islamic way) then we cannot sell it, even if it is to a non-Muslim.
 - If we are working for example at a shop which sells these things, we cannot be directly involved in selling these products (i.e. working at the check-out counter)
- If the *mītah* is not najis (for example non-ḥalāl seafood such as calamari) then we can sell it to those who deem it ḥalāl only.

PIG PRODUCTS

- It is ḥarām to eat products derived from pigs. This is mentioned at least three times in the

Holy Qur'an and Muslims are unanimous about this. Pig products are not only ḥarām to eat, but are also najis.

- It is impermissible to sell pig products, even to non-Muslims, because they are najis. We should not engage in any business involving pig products. Our Imams have said:

“When Allah makes something forbidden, he also makes profit from it forbidden”

DOGS

- Dogs are najis in themselves. Therefore, we cannot engage in business related to dogs.
- The definite exception to this is a hunting-dog. We are allowed to keep such a dog and the prey the dog catches does not become najis even though it is touched by the dog.
- Shepherd dogs and guard dogs are also allowed according to some scholars. If we need such dogs, we should keep them outside the house.

Imam al-Ṣādiq (as) was asked about the profit gained from selling a non-hunting dog. He (as) said: “this is forbidden, but profit from selling a hunting-dog is okay.”

GAMBLING

Gambling is one of the mortal sins in Islam, and so being involved in any business that includes gambling is impermissible. This prohibition is clearly expressed in the Qur'an, and the term used to describe gambling is '*al-maysir*' (literally: easy loss).

- The first point to emphasise is that gambling of any type is impermissible. This includes betting on sporting matches, online poker, poker machines, TAB, and so on.
- While it is common in Australia for people to make a 'friendly bet' on the Melbourne Cup in the workplace or at school, even this is not allowed in Islam.
- The second important point is that engaging in any business that involves gambling is not allowed. For example, working in a casino, helping to create a gambling website or being a bookie are all disallowed.

- Selling or buys instruments or equipment which would solely be used for the purposes of gambling (e.g. poker cards) is impermissible.
- The third issue is that we have multiple narrations from our Imams (as) forbidding chess. At the time of our Imams, chess and backgammon were common forms of gambling activities. In one narration, Imam al-Ṣādiq (as) says:

“Backgammon, chess, and all gambling are examples of *al-maysir*”

He also says:

“Backgammon, chess and anything that is gambled with are examples of *al-maysir*”

However, more recently, chess is no longer used for gambling and is played in a completely different context. Therefore some of our scholars rule that playing chess is impermissible, while others still rule that it is impermissible.

SCULPTURES AND DRAWINGS

Drawings which are created for ḥarām purposes are impermissible to create.

When it comes to sculptures, some scholars deem it impermissible to create a sculpture of any living being. Others limit this to sculptures which would be used for worship or other impermissible acts. In general though, a Muslim cannot create a cross that will be venerated by Christians or an idol that would be worshipped by Buddhists.

MUSIC AND SINGING

We have discussed this issue in other lessons. The main point to review is that selling any music or song which is not permissible in Islam is ḥarām. Just as we are not allowed to listen to these types of songs and music, we are also not allowed to sell the instruments, CDs, DVDs or other products related to them.

HELPING OPPRESSORS

Assisting oppressors in their oppression is a major sin in Islam, and should be avoided in all circumstances. Thus any business

which supports an oppressor somehow is forbidden in Islam. The Holy Qur'an commands:

“Help each to piety and virtue, and do not help each other to enmity and sin”

Our Imams have said: “The person who oppresses others, the person who supports this and the person who is happy with this, will all be companions in the Hell-Fire.”

Abu Baṣīr, a companion of the Imam, asked Imam al-Bāqir (as) if he was allowed to work in the government of the ‘Abbasids. The Imam replied: “no, you cannot even sharpen their pencils. A person does not gain anything of their world, except that they take the same portion of his religion”.

Therefore, we should be very careful to take any position with oppressive governments or companies that support them. The only exception is if that position will genuinely allow us to help the believers and stop them from being harmed.

Review Questions

1- A Muslim is:

- a. Is allowed to sell al-mīṭah to non-Muslims
- b. Is allowed to sell only al-mīṭah which is ṭāhir and only to non-Muslims
- c. Is allowed to sell any meat to anyone

2- A Muslim

- a. Is not allowed to gamble but can engage in gambling-related businesses
- b. Is not allowed to gamble or engage in gambling-related businesses
- c. Is allowed to gamble if it is online

Lesson 2: Islamic Business Practices

In continuation of our previous lesson on the rules of Islam in relation to business, here we will discuss some business practices which are forbidden in Islam. The reason for these practices being forbidden is to maintain justice and avoid exploitation.

CHEATING

Cheating, fraud or deception in a transaction or in trade makes the earning through that transaction ḥarām.

Unfortunately, cheating and fraud are very common in the business world, and there is a mentality that: ‘if you can get away with it, go for it’. However, as Muslims, we should make sure that we do not engage in these practices. In Islam, the trader is considered ‘the one loved by Allah (ḥabibullah)’ and so must respect this position by remaining honest.

Imam al-Ṣādiq (as) says in an authentic narration:

“the one who cheats us is not one of us”.

In another authentic narration, Imam al-Ṣādiq (as) walked past a shop where a fabric-seller had placed his products in dim light such that people could not see the real quality of the fabric. The Imam (as) told him that doing business like this is not allowed and he must display his goods properly.

The definition of cheating in Islam is when a person takes money but in return gives something other than what the customer thinks he is buying. Some examples are selling milk mixed with water when the buyer thinks he is buying pure milk, or selling old car parts as new or saying a car has no faults when the seller knows that it does.

A person came to Imam al-Ṣādiq (as) and said: ‘I sell caps, but I put old cotton inside the caps and do not tell people about this’. The Imam (as) said:

“I prefer that you would tell them what material you have used.”

The wording of the Imam (as) indicates that although it is not ḥarām to selling poorer quality things, one should not sell it at the price of a higher quality thing.

In another narration, the Prophet (saw) went to the market where grains were sold. He said to a particular shop-keeper:

“Your food looks good, how much is it?” Just then, Allah revealed to him to place his hand in the pile of grains and grab some grains from the bottom of the pile. When he did this, he saw bad grains hidden at the bottom of the pile. Here, the Prophet said: “you have betrayed and cheated the Muslims.”

THE CONSEQUENCES OF CHEATING

It is common sense to not cheat others, because we do not like to be cheated ourselves. In addition to this, cheating can cause a business to fail. The following narrations indicate this:

- In one example, there was a woman called Zaynab, who sold perfume. She used to come and sell perfume to the wives of the Prophet. The Prophet (saw) said to Zaynab:

“When you sell, remain righteous and do not deceive. This is more pure and protects your good for longer.”

- In another narration, Imam al-Ṣādiq (as) said:

“Avoid deception, because the one who deceives others, others will deceive him. If he has no wealth, he will be cheated with regards to his family.”

- The Prophet (saw) says:

“Whoever deceives his Muslim brother, Allah will take away the blessings from his sustenance, will spoil his livelihood and will leave him to himself”

CAN WE CHEAT NON-MUSLIMS?

Cheating is forbidden, no matter who we are dealing with. Cheating in business with non-Muslims is ḥarām, especially if the image of Islam would be tarnished by this.

BRIBERY

Bribery is when we pay someone an illegal fee in order to show us favour. Examples include when a person pays a bribe so that his application for a driving lesson is accepted even though he has not passed the test, or when a person bribes a judge to rule in his favour.

Bribery is forbidden in all legal systems, and this is the case in Islam also. This is a matter of common sense, because bribery leads to injustice, discrimination and other problems.

In Islam, the person giving the bribe, taking the bribe and anyone else involved in negotiations to do with bribery is sinning, and the wealth gained in this way is ḥarām. Even if a bribe is given in the form of a gift or commission, it remains haram.

Taking bribes when a person is in the position of judgment is particularly bad. Imam al-Bāqir (as) said:

“taking bribes when judging is disbelief in the Almighty Allah.”

The only exception to the above rule is if a person has no choice but to pay a bribe in order to do things important for his livelihood and get his rights. Unfortunately, this is the case in many so-called Muslim countries. However, the person receiving the bribe is still committing a mortal sin and will be punished, and it is as if he has lost his faith.

If a person takes a bribe, the money gained through the bribe is not the possession of that person, and if he uses that money, it is like he is using stolen money.

Situations where a company pays another company commissions or similar things to keep a deal between themselves are also impermissible in Islam, and earnings gained through this way are impermissible.

We should take great precaution when it comes to how we earn our money, because these issues can be dangerous for our faith and life.

USURY

Usury is when a lender gives a loan to a person but charges them for that loan. So a lender would lend \$1000 to a person but charge them a fee of 10% for every month that the debtor does not pay him back. This means that if the debtor does not pay the lender back for a year, he would then owe him \$2200.

When it comes to transaction, the āyāt and narrations are few in comparison to those about laws of worship, perhaps because transactions are often common sense things.

However, usury is an exception, and there are six āyāt in relation to usury in the Qur’an, showing just how important it is to avoid this. Usury was very common in the Age of Ignorance, and the Holy Qur’an made it impermissible in a gradual manner, until it finally made it absolutely impermissible.

“Those who eat Riba (usury) will not stand (on the Day of Resurrection) except like the standing of a person beaten by Satan leading him to insanity. That is because they say: "Trading is only like Riba (usury)," whereas Allah has permitted trading and forbidden Riba (usury). So whosoever receives an admonition from his Lord and stops eating Riba (usury) shall not be punished for the

past; his case is for Allah (to judge); but whoever returns [to Riba (usury)], such are the dwellers of the Fire - they will abide therein.”

As we can see, in these āyāt:

- The Qur’an describes the one who takes usury is like one who is struck by Satan
- They suffer in this way because they claim there is no difference between sale and usury
- Allah advises the believers to leave usury if they are truly believers
- Allah warns people that if they do not leave usury, then they are opening themselves to warfare from Allah, the Exalted

In today’s world, a clear example of usury is what loan sharks do. Loan sharks loan people who are desperate some money but charge huge interest rates, which exploit people.

When it comes to banks, there has been some discussion amongst our scholars recently about whether the loans banks give are usury or not. The discussion about this is for a higher level. However, at this stage, the interest that banks charge is still jurisprudentially considered to be usury.

When it comes to practical situations, most scholars allow a person to take a loan from a bank in a Western country even if the bank charges interest. This is because the person himself is not the one setting the condition of interest. Similarly, it is permissible to receive interest from a bank in a non-Muslim country.

- c. Is allowed, only if you can get away with it

Review Questions

1- Usury is:

- a. Permissible in Islam
- b. Impermissible in Islam
- c. Permissible in some situations

2- Cheating a non-Muslim:

- a. Is allowed
- b. Is not allowed