Ribā, Interest and Six Hadiths: Do We Have a Definition or a Conundrum?

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Abstract: The Qur'ān categorically prohibits *ribā*, but does not define it. It is commonly argued that *ribā* is defined by ḥadīth. At the time of the revelation about *ribā*, the only type of *ribā* known was *ribā al-jāhiliyyah*. If only that type is considered, usury or usurious/exploitative transactions would be prohibited. Later, the scope of the definition of *ribā* was broadened based on ḥadīth as textual proof, leading to the traditional position that all forms of interest are prohibited. In this paper it is explored whether the commonly-cited ḥadīths to define *ribā* hold up as claimed. Based on the analysis presented here, while the Qur'ānic prohibition can be easily understood in the case of *ribā al-jāhiliyyah*, and the rationale for it is obvious, as the readers would find, it is indeed a daunting task to use ḥadīths to define *ribā* and justify the broadened scope in terms of the *ribā*-interest equation.

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> Ibn Qayyim: "There is nothing prohibited except that which God prohibits ...To declare something permitted prohibited is like declaring something prohibited permitted." (cited in Thomas, 2006:63)

I. Introduction

The Qur'ān categorically prohibits *ribā*. However, since there is no unanimity about the definition or scope of this prohibition (Farooq, 2007a), we will use the original term *ribā* throughout this essay. In the Qur'ān it is specified:

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> Those who devour *ribā* will not stand except as stands one whom the Evil One by his touch has driven to madness. That is because they say: "Trade (*bayʿ*) is like *ribā*, but God has permitted trade and forbidden *ribā*. Those who after receiving direction from their Lord desist shall be pardoned for the past; their case is for God (to judge); but those who repeat (the offence) are companions of the fire: they will abide therein. (Qur'ān, 2: 275)
>
> O ye who believe! Devour not *ribā*, *doubled and multiplied*; but fear God; that you may (really) prosper. (Qur'ān, 3: 130)
>
> If ye do it not, take notice of war from God and His Messenger: But if ye turn back, ye shall have your capital sums: *Deal not unjustly, and you shall not be dealt with unjustly*. (Qur'ān, 2: 279)

Among other verses that deal with *ribā* are: 2:276 and 2:278; 4:160-61. These verses do not really define what is *ribā*. Based on the historical practices during the period of revelation, what is definitely prohibited in the Qur'ān is known as *ribā al-jāhiliyyah*.

> The way in which ribā was doubled and redoubled in the pre-Islamic period is expressed by the son of Zayd b. Aslam (d.136/754) as follows: "Ribā in the pre-Islamic period consisted of the doubling and redoubling [of money or commodities], and in the age [of the cattle]. At maturity, the creditor would say to the debtor, 'Will you pay me, or increase [the debt]'? If the debtor had anything, he would pay. Otherwise, the age of the cattle [to be repaid] would be increased ... If the debt was money or a commodity, the debt would be doubled to be paid in one year, and even then, if the debtor could not pay, it would be doubled again; one hundred in one year would become two hundred. If that was not paid, the debt would increase to four hundred. Each year the debt would be doubled." (Saeed, 1996: 22)

The exploitation and injustice of such *ribā*-based transactions are obvious and hardly require further explanation or rationalization. This type of *ribā* is known as *ribā al-jāhiliyyah*; according to some eminent Islamic scholars, such as Imām Aḥmad Ibn Ḥanbal, only such *riba* is unlawful without doubt from the Islamic viewpoint.

> The Qur'ān vehemently condemns *ribā*, but provides little explanation of what that term means, beyond contrasting *ribā* and charity and mentioning exorbitant 'doubling.' Commentators describe a pre-Islamic practice of extending delay to debtors in return for an increase in the principal (*ribā al-jāhiliyya*h). Since this practice is recorded as existing at the time of the revelation, it is one certain instance of what

> the Qur'ān prohibits. Hence Ibn Ḥanbal, founder of the Hanbali school, declared that this practice - 'pay or increase' - is the only form of *ribā* the prohibition of which is beyond any doubt. (Ibn Qayyim al-Jawziyyah, 1973, 2: 153-154, cited by Vogel and Hayes, 1998: 72-73)

However, gradually, based on *ḥadīth*, the scope of *ribā* was widened and two types were identified: *ribā al-faḍl* (primarily related to sales transactions), and *ribā al-nasī'ah* (sales or debt involving deferment), where the latter corresponded to *ribā al-jāhiliyyah*. Ibn ʿAbbās, one of the major companions of the Prophet and earliest of the Islamic jurists, and a few other companions (Usāmah ibn Zayd, ʿAbdullāh ibn Masʿūd, ʿUrwah ibn Zubayr, Zayd ibn Arqam) "considered that the only unlawful *ribā* is *ribā al-jāhiliyyah*" (Saleh, 1986: 27).

It is important to note here that based on (a) *ribā al-jāhiliyyah* and (b) injustice/exploitation as the *ḥikmah* (wisdom), usury would be prohibited, but interest in *all* its forms as it exists in modern economy and finance can't be *necessarily* categorized as prohibited. However, for what is not defined by the Qur'ān, definitions are generally sought from the Sunnah/ḥadīth. Apparently, the same is claimed in this case of *ribā*.

Since this notion is widely held, including at the non-specialist levels, we will use as an example IBF-Net, an online forum focused on Islamic Banking and Finance with 4,000+ members who are scholars, experts, researchers, practitioners or students all of whom share interest in this specialized field. On that forum, Thomas participated in a discussion[1] about the definition of *ribā* and how the Qur'ān and ḥadīth play a role in defining it. He wrote: "... there is no difference between the Qur'ān and the ḥadīth, but there are six authenticated ḥadīth that allow us to define this forbidden thing".

Actually, that assertion is based on Thomas's edited book (2006), and the enumerated ḥadīths are taken from a chapter titled 'What is ribā?' His views and works are to be noted, because according to another Sharīʿah expert and member of Sharīʿah Boards of several Islamic Financial Institutions, Sh. Yusuf Talal DeLorenzo: "Abdulkader Thomas has begun in a modest but effective way to emerge as one of Islamic Finance's most effective voices" (DeLorenzo, 2006: 8). Thus, when a claim that some authenticated ḥadīths 'allow us to define this forbidden thing' comes from such an expert, it is worthwhile exploring it, particularly so as since it also represents the typical view that *ribā* is defined by ḥadīth.

It is broadly agreed that the Qur'ān does not define *ribā*. "The Qur'ān does not explicitly define *ribā* as one type of transaction or another. ... The

efforts of the *fuqahā'* or judicial scholars like Sh. Zuḥaylī and the examples of the ḥadīth allow us to determine a clear idea of what is *ribā*" (Thomas, 2006: 127).

Interestingly, even second Caliph ʿUmar, one of the closest Companions of the Prophet, regretted about the insufficient guidance on this matter from the Prophet.

> ***Ḥadith*-1**: ʿUmar b. al-Khaṭṭāb said, "There are three things. If God's Messenger had explained them clearly, it would have been dearer to me than the world and what it contains: (These are) *kalālah*, *ribā*, and *khilāfah*." (*Sunan Ibn Mājah*, Book of Inheritance, Vol. 4, #2727; *Ibn Mājah* adds: "According to al-Zawā'id, the authorities of its *isnād* are reliable, but it has *munqaṭiʿ* chain of transmission," p. 113; *munqaṭiʿ* means an interrupted, broken or discontinuous chain).

At the time of the revelation of the verses about *ribā*, the only type of *ribā* known was *ribā al-jāhiliyyah*. If only that type is considered, usury (exploitative, exorbitant rate of interest) or usurious transactions would be prohibited. However, later, the scope of the definition of *ribā* was broadened based on ḥadīth. Abdulkader Thomas referred to ḥadīths (and there are more ḥadīths in a number of variations) that are commonly presented by the orthodoxy as textual proof for the definition of *ribā*. Using the broadened definition, the orthodox consider modern interest in all its forms to be prohibited. In this paper, we examine those six ḥadīths to understand better the claim that they define *ribā*. I should clarify that there are definitely many more ḥadīths about *ribā* and our examination goes beyond the few mentioned by Thomas. The only significance of the 'six' in the title of this essay is the claim of an expert in Islamic finance that these 'six ḥadīths' (or themes of ḥadīths, identified as 'Theme') define what *ribā* is. I should also note that the presentation below is not affected by ḥadīths other than those six.

II. Some Pertinent Points about Ḥadīth

Thomas (2006) enumerated six specific ḥadīths.[2] However, before we discuss those, a few things about ḥadīth need to be understood, as there are several myths or misperceptions, such as the following:

1. If a ḥadīth quotes the Prophet, we know that's exactly what the Prophet said.
2. The *Ṣaḥīḥ* collections contain ḥadīth that are indisputable.

3. There is no contradiction among *ḥadīths* on the same topic, or among narrations of the same ḥadīth.
4. Ḥadīths provide knowledge or information that is certain or definitive.

In this paper, myth 1 and 4 are particularly relevant. It is important to note that a ḥadīth being *ṣaḥīḥ* (authentic) does not necessarily mean that it provides definitive (or certain) knowledge. Only *mutawātir* type of ḥadīth - a ḥadīth which is reported by so many people from so many people that they cannot be expected to agree upon a lie, all of them together - yields certain knowledge about a particular matter. Even then, only *mutawātir bi'l-lafẓ* (*mutawātir* ḥadīths that contain exact words in each chain) belongs to this category of ḥadīth that yields certainty of knowledge. *Mutawātir bi'l-maʿnā* (*mutawātir* ḥadīths that contain only similar but not exact words in each chain), do not bear the same weight. There are very few ḥadīths that belong to the first type, *mutawātir bi'l-lafẓ*. Indeed, scholars have identified fewer than a dozen ḥadīths in this category. Non-*mutawātir* ḥadīths are known as *āḥād* (solitary). Since *mutawātir* ḥadīths are fewer than a dozen (out of hundreds of thousands of ḥadīths including the variations of chains), it can be said that virtually all ḥadīths, including *ṣaḥīḥ* ḥadīths, are *āḥād* and yield only *probabilistic* knowledge.

They can still be reasonably reliable for guidance. Muslims should utilize them for guidance and solutions, if properly authenticated in terms of both chains and contents, as long as we (a) acknowledge the probabilistic nature of the source and do not claim certainty in regard to the issue in question, (b) do not formulate laws, codes or dogmas that are too rigid or harsh, especially pertaining to people's life, honour and property, and (c) do not claim finality in terms of authoritativeness of any laws, codes or dogmas that are arrived at using such probabilistic sources.[3]

Let me note one other point as an illustration before we delve into a detailed discussion about those ḥadīths. Like many other such works, a critical weakness of Thomas' book is that adequate care in dealing with all the ḥadīths is not easily notable. Let me illustrate by referring to one scholar, Sh. Wahbah al-Zuḥaylī, a contributor to the book. As introduced therein, Sh. Zuḥaylī is "the Dean of the College of Sharīʿah at Damascus University and a member of numerous Sharīʿah supervisory boards governing Islamic banks. His work *Fiqh al-Sunnah wa-Adilatuhā* is one of the leading and most widely relied upon manuals of modern Islamic jurisprudence" (Thomas, 2006: 8).

In the chapter The juridical meaning of *Ribā*' Sh. Zuḥaylī cites a ḥadīth as follows: Ḥākim relates on the authority of Ibn Masʿūd that the Prophet said, "*Ribā* is of seventy three kinds, the lightest in seriousness of which is as bad as one's marrying his own mother; for the Muslim who practices *ribā* goes mad" (Thomas, 2006: 27). Endnote #6 adds: "Related by Ibn Mājah in a shortened version, and by Ḥākim in its complete form, deeming it *rigorously authenticated*." There are many other ḥadīths of the same meaning, some of which include the phrase, "*Ribā* consists of seventy categories," and in others, "*Ribā* consists of seventy two categories" (Thomas, 2006: 49). Interestingly, Ibn Ḥajar al-ʿAsqālānī, one of the foremost ḥadīth scholars (852 AH), has noted about Ḥākim (and a work of Ibn Jawzī): "*A Great Collection of Fabricated Traditions* by Ibn Jawzī is as unreliable in its declaring the grade of 'forged' as *Mustadrak al-Ḥākim* is unreliable in its declaring the grade of 'sound' (*ṣaḥīḥ*)."[4]

We can begin with the relatively minor issue of the discrepancy, seventy *vs.* seventy-two. Actually, the difference is much wider. Traditionally, such discrepancies have no bearing on the acceptability or not of such *ḥadīths* even though it is quite clear that something is wrong here because some reports contend seventy, some seventy-two, some seventy-three and others suggest other numbers. However, it is unwise for Muslims to take such scholars' words at face value. Let us explore further. Sh. Zuḥaylī cites the ḥadīth reported by Ibn Mājah as well as Ḥākim, and this is what Ibn Mājah has to add as commentary to that ḥadīth. According to al-Zawā'id, its *isnād* contains in it Najsh b. ʿAbd al-Raḥmān Al Maʿshar. The scholars are unanimous on declaring him *ḍaʿīf* (*i.e.* weak) (*Sunan Ibn Mājah*, Vol. 3, #2274, p. 351).

So, how is this ḥadīth 'rigorously authenticated'?[5] Or, is Sh. Zuḥaylī claiming this about the longer version of the ḥadīth that Ḥākim reported? If he is then why refer to Ibn Mājah, but not clarify that it is classified *ḍaʿīf* by Ibn Mājah himself? But the problem with this ḥadīth is even deeper. Many other ḥadīth scholars have also disputed its authenticity (Eesa, n.d.).

Thomas' book deserves special attention because the author elevates the controversy about interest to the level of belief and disbelief. "*Ribā* is part of a broader problem of belief and behavior. Refusing to combat *ribā* is akin to disbelief. Conceding the argument that money has an intrinsic value is potentially a greater act of disbelief" (Thomas, 2006: 133).

Raising any issue to the level of belief and disbelief is a serious matter. Raising an issue such as whether money has an intrinsic value to the level of "potentially a greater act of disbelief" is not just unwarranted, but also seriously presumptuous and judgmental. As it is generally agreed that the Qur'ān doesn't define *ribā* but (it is claimed) that ḥadīth does, readers need to watch the ḥadīths mentioned in such works since they either have to assume that the quoted ḥadīth are authentic (unless mentioned otherwise) or they would be informed that the ḥadīths are 'authenticated' (even 'rigorously authenticated'). However, conscientious readers should never defer their own due diligence to others.

In the following segments, the pertinent ḥadīths will be discussed in assessing the assertion that *ribā* is defined by certain 'authenticated' ḥadīths. It is important to keep in mind that even though Islamic scholars utilize and apply ḥadīth rather broadly in formulating Islamic laws, the scholars also generally agree and acknowledge that even authentic (*ṣaḥīḥ*) ḥadīths yield only probabilistic knowledge (Farooq, 2008b).

It should also be noted that in examining pertinent ḥadīths the six specific ḥadīths that Thomas cited and referenced in his book, are identified. Of course, other ḥadīths beyond those six are also examined for greater comprehensiveness. Thomas' citation is incomplete which is quite common with many writers. In case Thomas or others did not offer those, appropriate citations have been added to the examination of the relevant ḥadīth. Since several ḥadīths are examined throughout this essay, I have used the following numbering protocol: (a) The six cited by Thomas were organized under six different themes (*e.g.* Theme I, II, …) and specific ḥadīths are listed as, for example, I.a, I.b, II.a, II.b, II.c., ...; (b) All the ḥadīths are presented sequentially (*e.g.* H-1, H-2, H-3,…); (c) Also, except for those that include comments or annotations citations of ḥadīth are immediate, rather than deferring them to endnotes.

III. The Six (Themes of) Ḥadīth

3.1. Hadith I: Theme – 'No ribā in spot transactions' or 'No ribā except in deferment/credit'

> ***Ḥadīth*-2** I.a.: From Usāmah ibn Zayd: The Prophet said: "There is no *ribā* except in *nasī'ah* [waiting]." (*Ṣaḥīḥ Bukhārī*, Kitāb al-Buyūʿ, Bāb Bayʿ al-dinār bi'l-dinār nasa'an, Vol. 3, #386)

> ***Ḥadīth*-3** I.b.: "There is no *ribā* in hand-to-hand [spot] transactions." (*Ṣaḥīḥ Muslim*, Vol. III, #3878, Kitāb al-Musāqāt, Bab bayʿ al-ṭaʿām mithlan bi-mithl).

This ḥadīth has several variations. None is *mutāwatir*. Notably, this ḥadīth in all its variations is quite categorical that there is no *ribā* in hand-to-hand or spot transactions. Thus, any otherwise-permissible transaction or spot transaction can not involve *ribā*. Even the orthodoxy accepts these ḥadīth as authentic (*ṣaḥīḥ*) even though they establish no certainty of knowledge since they are not *mutawātir*. However, if taken literally, as Iqbal Ahmad Khan Suhail opines in his book: "these narrations demolish the self-invented castle of *ribā al-faḍl*" (Suhail, 1999: 8).

The ḥadīth narrated by Usāmah - "There is no *ribā* except in nasī'ah or deferment" - suggests that deferment or credit involves *ribā*. However, it is well-known and supported by many ḥadīths that the Prophet had entered into credit-purchase transactions (*nasī'ah*) and also that he paid more than the original amount. Also, "Ṣaḥābah have paid more than the original amount at the time of repayment and the Prophet approved of it" (Suhail, 1999: 84).

> ***Ḥadīth*-4**: *Ṣaḥīḥ al-Bukhārī*, Vol. 3, #282, Narrated ʿĀ'ishah: "The Prophet purchased food grains from a Jew on credit and mortgaged his iron armur to him". (*ishtarā ṭaʿāman min yahūdī ilā ajalin wa ṟahnahū dirʿan min ḥadīd*; in al-Bukhārī, Vol. 3, #309 the hadith is narrated with *nasī'ah*, instead of *ajal*)
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> ***Ḥadīth*-5**: *Ṣaḥīḥ al-Bukhārī*, Vol. 3, #579, Narrated Jābir bin ʿAbdullāh: "I went to the Prophet while he was in the Mosque. (Misʿar thinks that Jābir went in the forenoon.) After the Prophet told me to pray two rakʿah, he repaid me the debt he owed me and gave me an extra amount".

Ḥadīth-4 is stated without any qualification: there is no *ribā* except in *nasī'ah*. Of course, there are other ḥadīths, also *ṣaḥīḥ*, which add further qualifications. However, if deferment or credit-based transactions (*nasī'ah*) does involve *ribā*, where the latter is categorically prohibited in the Qur'ān, then how did the Prophet engage in purchases with provision for deferred payment (*Ḥadīth*-4, *ajal*)? Of course, this type of mortgaging or using pawnbroker's service is recognized as Islamically valid and acceptable, as illustrated through this ḥadīth. Also how did he pay extra (another meaning of *ribā*, which means "excess") as in *Ḥadīth*-5 above? Are we to assume that

the Jew who offered food to the Prophet on credit did not benefit from the transaction? And in case he did, wasn't that *ribā*? It should be noted that while deferred/credit purchase such as in *Ḥadīth*-4 is permissible, buying food on credit (either on a secured or unsecured loan) implies a much greater vulnerability of the buyer/mortgager than it is in a profit-oriented, commercial transaction. Also since this was a valid and common practice, why the emphasis in these ḥadīths that they were paid extra in debt repayment?

Some might argue that voluntary extra payment in case of a loan without any 'stipulation' of excess is permissible based on ḥadīths, such as *Ḥadīth*-5. However, it is contradicted by other ḥadīths: "*Every* loan that attracts a benefit/advantage is *ribā*."[6] Without getting into the issue of authenticity of any such narration, orthodox advocates of Islamic finance and banking commonly use such ḥadīth. (Rahman, 2005, Guidance Financial, n.d., slide 23; Usmani, 1999: section No. 101).[7] If that is accurate, then there is no provision to differentiate between loans with 'stipulated' excess and voluntarily paid extra. How can 'all' loans which accrue a benefit to the lender be *ribā*, but not gratuitous loans? It seems like having one's cake and eating it too. To cite the ḥadīth "All loans with a benefit to the lender is *ribā*" in order to justify prohibition of any loans with an extra, but then to limit the prohibition only to the loans with 'stipulated' excess, to reconcile the ḥadīth that allows voluntary extra payments is a definite an attempt to reconcile the irreconcilable. Indeed, it is another fundamental problem that due to many contradictory ḥadīths, many jurists or commentators have a penchant for selective use of ḥadīths as textual evidence.

Of course, it could also be argued that both the above-mentioned ḥadīths are from a period before *ribā* was prohibited. However, we would then indulge in drawing an inference since there is no definitive knowledge or information, to support such an argument.

3.2. Ḥadīth II-III: Theme - In case of loans, no excess is to be accepted by the lender

> ***Ḥadīth*-6** II.: From Anas ibn Mālik: The Prophet said: "If a man extends a loan to someone he should not accept a gift." (*Mishkāt*, op. cit., on the authority of Bukhārī's Tārīkh and Ibn Taymiyyah's *al-Muntaqā*)
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> ***Ḥadīth*-7** III.a.: From Abū Burdah ibn Abī Mūsā: I came to Madīnah and met ʿAbdullāh ibn Salām who said, "You live in a country where *ribā* is rampant; hence if anyone owes you something and presents you

> with a load of hay, or a load of barley, or a rope of straw, do not accept it for it is *ribā*." (*Ṣaḥīḥ al-Bukhārī*, Vol. 5, #159).
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> ***Ḥadīth*-8** III.b.: Narrated Abū Umāmah: The Prophet said: "If anyone intercedes for his brother and he presents a gift to him for it and he accepts it, he approaches a great door of the doors of *ribā*." (*Sunan Abū Dāwūd*, Vol. 2, #3534)

All these reports above relate to the same theme. A lender should not accept any excess (even in the form of gift) as part of, or with the repayment of the principal. *Ḥadīth*-6 is not from any primary ḥadīth collection. *Mishkāt* is a secondary source. Also, the two other sources, Bukhārī's *Tārīkh* (history) and Ibn Taymiyyah's *al-Muntaqā*, as referred to in Thomas, are not ḥadīth sources either. *Ḥadīth-7* is from *Ṣaḥīḥ al-Bukhārī*, but it is actually an *āthār* (statements of or reports from the Companions themselves), and also neither of the preceding two reports is *mutāwatir*.

The implication of these reports is quite clear. They emphasize the role of the lender. Nothing in excess of the principal should be accepted by the lender. It says nothing about the borrower not paying anything extra. Yet, reports that disallow lenders to accept any extra amount are at odds with the Prophetic practice insofar as he himself offered extra and the lender accepted it [see *Ḥadīth*-5]. Why would the Prophet forbid lenders to accept any extra, while he paid extra? If this constitutes *ribā* and it is prohibited - whether in the Qur'ān and/or ḥadīth, how must one reconcile the fact that, in another ḥadīth, both the receiver and payer of the *ribā* are considered equally guilty?

> ***Ḥadīth*-9**: *Ṣaḥīḥ Muslim*, Vol. III, No. 3854: Abū Saʿīd al-Khudrī (r) reported God's Messenger (p) as saying: "Gold is to be paid for by gold, silver by silver, wheat by wheat, barley by barley, dates by dates, salt by salt, like by like, payment being made hand to hand. He who made an addition to it, or asked for an addition, in fact dealt in *ribā*. *The receiver and the giver are equally guilty*."

Also, the two ḥadiths in themes II-III are contradicted by other ḥadiths where the Prophet approved of extra payments in settlement of debts. There are also cases where settling of in-kind borrowing involved better quality than the original.

> ***Ḥadīth*-10**: Narrated Abū Hurayrah that the Prophet borrowed a two-year-old camel and returned a similar camel, and in addition he gave another camel, and said: "Best of you are the best in returning your

debts." (Suhail, p. 106, quoting Jāmiʿ al-Tirmidhī, Kitāb al-Buyūʿ, v.6, No. 56)

***Ḥadīth*-11**: *Ṣaḥīḥ Muslim*, Vol. III, No. 3899: Abū Hurayrah (r) reported: God's Messenger (p) took a camel on loan, and then returned him (the lender) the camel of a more mature age and said: 'Good among you are those who are good in clearing off the debt."

***Ḥadīth*-12**: *Muwaṭṭa'*, Kitāb al-Buyūʿ, No.1368 Mujāhid reported that ʿAbdullāh ibn ʿUmar took some dirhams as a loan and paid back better dirhams. The man said, "Abū ʿAbd al-Raḥmān. These are better than the dirhams which I lent you." ʿAbdullāh ibn ʿUmar said, "I know that. But I am happy with myself about that."

***Ḥadīth*-13**: *Sunan Abū Dāwūd*, Vol. 3, No. 3341: Narrated Jābir ibn ʿAbdullāh: "The Prophet (p) owed me a debt and gave me something extra when he paid it."

There could be an argument that ḥadīths disallowing the lender to accept anything extra were from a period before *ribā* was officially prohibited. If indeed correct, then those ḥadīths may not be cited for prohibition of *ribā*. Furthermore, if the argument that those ḥadīths were from pre-prohibition period was valid, then once again, we would face the reality that no definitive information or corroboration to that effect exists. Is there?

Another plausible explanation is that ḥadīths that disallow lenders any excesses pertain to *qarḍ ḥasan*,(Qur'ān, 2: 245), a non-profit or gratuitous loan out of benevolence. If so, then those ḥadīths simply reinforce the verse about *qarḍ ḥasan*. However, by the same token, any profitable transaction, whether interest-based or not, wouldn't be covered by those ḥadīths.[8]

Some argue that such voluntary extra payment is all right, but not if such extra is stipulated by the lender. However, the reason such argument is invalid is because *ribā al-jāhiliyyah*, the type indicated in the Qur'ān, was not based on stipulated excess.

Indeed, *ribā* related ḥadīths do not use the term 'loan' (*qarḍ*) or 'debt' (*dayn*). Abdullah Saeed discusses the following based on Muḥammad Rashīd Riḍā (d. 1935), an eminent scholar and the disciple of Shaykh Muḥammad ʿAbduh:

> ... [N]one of the authentic ḥadīth attributed to the Prophet in relation to *ribā* appears to mention the terms, 'loan' (*qarḍ*) or 'debt' (*dayn*). This absence of any reference to loans or debts in *ribā*-related ḥadīth

led a minority of jurists to contend that what is actually prohibited as *ribā* is certain forms of sales, which are referred to in the ḥadīth literature.[9]

3.3. Ḥadīth IV-V: Theme - Barter/Trade except spot transactions or likes (in quality or quantity) of certain commodities is prohibited

> ***Ḥadīth*-14** IV.a.: From Abū Saʿīd al-Khudrī: The Prophet (p), said: "Do not sell gold for gold except when it is like for like, and do not increase one over the other; do not sell silver for silver except when it is like for like, and do not increase one over the other; and do not sell what is away [from among these] for what is ready." (*Ṣaḥīḥ Bukhārī*, Kitāb al-Buyūʿ, Bāb bayʿ al-fiḍḍah bi'l-fiḍḍah, Vol. 3, #385; also *Muslim*, Vol. III, No. 3845, Tirmidhī, Nasā'ī and Musnad Aḥmad)
>
> ***Ḥadīth*-15** IV.b.: From ʿUbādah ibn al-Ṣāmit: The Prophet (p), said: "Gold for gold, silver for silver, wheat for wheat, barley for barley dates for dates, and salt for salt - like for like, equal for equal, and hand-to-hand; if the commodities differ, then *you may sell as you wish, provided that the exchange is hand-to-hand*." (*Muslim*, Kitāb al-Musāqāt, Bāb al-ṣarf wa-bayʿ al-dhahab bi'l-waraq naqdan, Vol. III, No. 3853; also in Tirmidhī)

These ḥadīths, mentioned by Thomas, warrant no separate explanation because, as already demonstrated above, hand-to-hand or spot transactions (bartering or trade) are permissible in Islam and such transactions do not involve *ribā*. But let us not draw a hasty conclusion. Readers should patiently peruse the argument below.

Many ḥadīths, including those pertaining to *ribā*, might make an amazing collective maze.

> ***Ḥadīth*-16**: *Ṣaḥīḥ al-Bukhārī*, Vol. 3, No. 344: Narrated ʿUmar ibn al-Khaṭṭāb: God's Apostle said, "The bartering of gold for silver is *Ribā* (usury), except if it is from hand to hand and equal in amount, and wheat grain for wheat grain is usury *except if it is from hand to hand and equal in amount*, and dates for dates is usury except if it is from hand to hand and equal in amount, and barley for barley is usury except if it is from hand to hand and equal in amount."

According to the above ḥadīth, an exchange of gold for silver is *ribā* except hand to hand (or spot) transaction *and* equal in amount. Now let us review the following ḥadīth from al-Bukhārī:

> ***Ḥadīth*-17**: *Ṣaḥīḥ al-Bukhārī*, Vol. 3, No. 388: Narrated ʿAbd al-Raḥmān ibn Abī Bakrah: that his father said, "The Prophet forbade the selling of gold for gold and silver for silver *except if they are equivalent in weight*, and allowed us to sell gold for silver and *vice versa* as we wished."

According to the above ḥadīth, an exchange of gold for silver is *ribā* except if they are equal in amount. There is no mention of spot/hand-to-hand restriction. Now let us review the following ḥadīth from *al-Bukhārī*:

> ***Ḥadīth*-18**: Yaḥyā related to me from Mālik from Ibn Shihāb from Mālik ibn Aws ibn al-Ḥadathān al-Nasrī that one time he asked to exchange 100 dinars. He said, "Ṭalḥah ibn ʿUbaydullāh called me over and we made a mutual agreement that he would make an exchange for me. He took the gold and turned it about in his hand, and then said, 'I can't do it until my treasurer brings the money to me from al-Ghābah.' ʿUmar ibn al-Khaṭṭāb was listening and ʿUmar said, 'By God! Do not leave him until you have taken it from him!' Then he said, 'The Messenger of God, ..., said, "*Gold for silver is usury except hand to hand*. Wheat for wheat is usury except hand to hand. Dates for dates is usury except hand to hand. Barley for barley is usury except hand to hand." (Kitāb al-Buyūʿ, Vol. 3, No. 382; also, *Muwaṭṭā Imām Mālik*, Kitāb al-Buyūʿ, No. 1321)

According to the above ḥadīth, an exchange of gold for silver is *ribā* except hand to hand (or spot) transaction. No mention of equivalence in weight as a restriction. Next let us check the following ḥadīth from al-Bukhārī:

> ***Ḥadīth*-19**: *Ṣaḥīḥ al-Bukhārī*, Vol. 3, No. 383: Narrated Abū Bakrah: God's Apostle said, "Don't sell gold for gold unless equal in weight, nor silver for silver unless equal in weight, but *you could sell gold for silver or silver for gold as you like*."

According to the above ḥadīth, an exchange of gold for silver or *vice versa* is under no restriction. Regardless, let us consider the following ḥadīth from Ṣaḥīḥ Muslim.

> ***Ḥadīth*-15**: (citing once more) *Ṣaḥīḥ Muslim*, Vol. III, No. 3853: ʿUbādah b. al-Ṣāmit (God be pleased with him) reported God's Messenger (*pbuh*) as saying: "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*".

According to above ḥadīth, even when the classes differ - gold for silver or silver for gold, we can't do as we wish. It still has to be spot/hand-to-hand transaction. So, which one is it? Interestingly, contending he has a better explication of the prohibition of *ribā* (including bank interest) based on the works of classical jurists Nyazee (2000), a contemporary scholar of Islamic fiqh, ambitiously asserts:

> ... the traditions pertaining to *ribā* are some of the most complex traditions in the entire Islamic legal literature. Studying them is instructive not only for discovering the meaning of *ribā*, but also for understanding the methods of interpretations employed by the jurists. These traditions help us in comprehending the general principles of Islamic law. They bring out the unique nature of this legal system and make out a strong case for the serious study of the work of the jurists.

Hopefully, the pertinent ḥadīths (*Ḥadīth*-15 - *Ḥadīth*-19) help the readers recognize and appreciate the challenge the jurists have faced in order to establish a clear, incontrovertible definition of *ribā* in light of ḥadīth. Did Nyazee do a better job than his predecessors, just as he boldly claimed? Well, readers should read his works and decide for themselves.

Notably, some of the ḥadīths specifically mention *ribā* whereas others do not even though all pertain to the same issue. But do these ḥadīths relate to *ribā* at all? Well, to deal with that question we need to move to the next theme, which offers similar ḥadīths, but specifically mention of the *ribā* connection.

> ***Ḥadīth*-20** V.a.: From Abū Saʿīd al-Khudrī: "The Prophet (p) said: "Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt - like for like, and hand-to-hand. *Whoever pays more or takes more has indulged in ribā*. The taker and the giver are alike [in guilt]." (*Ṣaḥīḥ Muslim*, Vol. III, No. 3854; and Musnad Aḥmad)

Beyond the *Ḥadith*-16- *Ḥadith*-18, where the word *ribā* is specifically mentioned in the preceding ḥadīth, an additional statement with specific reference to *ribā* is present: "Whoever pays more or takes more has indulged in *ribā*." This is important because in such ḥadīth a specific reference to *ribā* is made, on the basis of which *ribā al-faḍl* (*ribā* involving excesses in barter/trade) has been identified and declared prohibited by many Islamic scholars and jurisprudents.

First, this is not a *mutawātir* ḥadīth either, and thus does not yield certainty of knowledge. However, there are more problems with the ḥadīth that pertain to the additional statement: "Whoever pays more or takes more has indulged in ribā. The taker and the giver are alike (in guilt)." The narration of this ḥadīth might suggest that the additional (italicized) part is also from the Prophet. However, as Suhail (1999: 63-69) has convincingly shown in his book *What is Ribā?* the addition is not from the Prophet.

There are ḥadīths in *Ṣaḥīḥ Muslim* that dispute this same ḥadīth (reported by ʿUbādah ibn al-Ṣāmit):

> ***Ḥadīth*-21**: *Ṣaḥīḥ Muslim*, Vol. III, No. 3852: Abil Qiliba reported: I was in Syria (having) a circle (of friends). in which was Muslim b. Yāsir. There came Abū'l-Ashʿath. He (the narrator) said that they (the friends) called him: Abū'l-Ashʿath, Abū'l-Ashʿath, and he sat down. I said to him: "Narrate to our brother the ḥadīth of ʿUbādah b. al-Ṣāmit". He said: "Yes. We went out on an expedition, Muʿāwiyah being the leader of the people, and we gained a lot of spoils of war. And there was one silver utensil in what we took as spoils. Muʿāwiyah ordered a person to sell it for payment to the people (soldiers). The people made haste in getting that. The news of (this state of affairs) reached ʿUbādah b. al-Ṣāmit, and he stood up and said: *I heard God's Messenger (may peace be upon him) forbidding the sale of gold by gold, and silver by silver, and wheat by wheat, and barley by barley, and dates by dates, and salt by salt, except like for like and equal for equal. So he who made an addition or who accepted an addition (committed the sin of taking) interest.* So the people returned what they had got. This reached Muʿāwiyah". And he stood up to deliver an address. He said: "*What is the matter with people that they narrate from the Messenger (may peace be upon him) such tradition which we did not hear though we saw him (the Prophet) and lived in his company?*" Thereupon, ʿUbaydah b. al-Ṣāmit stood up and repeated that narration, and then said: "We will definitely narrate what we heard from God's Messenger (may peace be upon him) though it may be unpleasant to Muʿāwiyah (or he said: Even if it is against his will). I do not mind if I do not remain in his troop in the dark night. Ḥammād said this or something like this."

Indeed, there are other narrations of the same theme and stated on the authority of the same companion ʿUbādah ibn al-Ṣāmit, without such additions.

> ***Ḥadīth*-22**: ʿUbādah said: "the Prophet of Allah (p) prohibited that we sell gold for gold, silver for silver, wheat for wheat, barley for

barley, and dates for dates." (Suhail, p. 66, quoting *Sunan al-Nasā'ī*, Kitāb al-Buyūʿ, 275)

The following narration makes it clearer that the addition was not from the Prophet:

> ***Ḥadīth*-23**: "Muslim ibn Yasār and ʿAbdullāh ibn ʿUbayd, who was called 'Ibn Hurmuz,' narrated to me that ʿUbādah ibn al-Ṣāmit and Muʿawiyah met once. ʿUbādah narrated to them: 'The Prophet (pbuh) forbade us to sell gold for gold, silver for silver, dates for dates, wheat for wheat, barley for barley -- one of them [the two narrators] said: 'and salt for salt' while the other did not say it -- except quantity for quantity and kind for kind. One of them said: whoever increased or sought an increase committed *ribā* - the other [narrator] did not say it." (Suhail, p. 66, quoting *al-Nasā'ī*, Kitāb al-Buyūʿ, 275)

Thus, it is not a *mutawātir* ḥadīth; in addition, the ḥadīth narration has significant discrepancy and a statement from a companion of the Prophet was presumed to be a statement from the Prophet.

There is one other problem, and it is a rational one. As per these ḥadīths the Prophet prohibited barter transactions, specifying five/six commodities, unless such transactions were on the spot and alike in quality and/or quantity. However, who in the world did or does exchange an ounce of gold of exact quantity and of same quality? What would be the rationale for exchanging a pound or kilo of barley for another pound or kilo of the same quality? If the orthodox position or understanding was considered valid, here it would seem that the Prophet permitted that transaction which people could have no reason to conduct. A permission usually involves something that people do or need. In this case, no such possibility applies. Only people void of any sense would exchange an equal amount of the same quality of gold. How in the world the Prophet would go to such extent to permit such an exchange that sensible people could not be expected to conduct? It is a trivialization of the Prophet's guidance, especially if the Qur'ānic injunction about *ribā* is delinked from the rationale/wisdom (*ḥikmah*) - that is, *ẓulm* or injustice/exploitation - specifically mentioned in the Qur'ān.

That takes us to ḥadīths about some allegedly-prohibited transactions in Khaybar.

> ***Ḥadīth*-24** V.b.: From Abū Saʿīd and Abū Hurayrah: A man employed by the Prophet, peace be on him, in Khaybar brought for him janib [dates of very fine quality]. Upon the Prophet's asking him whether

> all the dates of Khaybar were such, the man replied that this was not the case and added that "they exchanged a *ṣāʿ* (a measure) of this kind for two or three (of the other kind)". The Prophet, peace be on him, replied, "Do not do so. Sell [the lower quality dates] for dirhams and then use the dirhams to buy janib. [When dates are exchanged against dates] they should be equal in weight." (*Ṣaḥīḥ al-Bukhārī*, Kitāb al-Buyūʿ, Bāb idhā arāda bayʿa tamrin bi tamrin khayrun minhu, Vol. 3, No. 499; also *Ṣaḥīḥ Muslim*, Vol. III, No. 3869; *Muwaṭṭa'*, No. 1305-1306 and Nasā'ī)
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> ***Ḥadīth-25*** V.c.: From Abū Saʿīd: Bilāl brought to the Prophet, peace be on him, some barnī [good quality] dates whereupon the Prophet asked him where these were from. Bilāl replied, "I had some inferior dates which I exchanged for these - two ṣāʿs for a ṣāʿ." The Prophet said, "Oh no, this is exactly *ribā*. Do not do so, but when you wish to buy, sell the inferior dates against something [cash] and then buy the better dates with the price you receive." (*Ṣaḥīḥ Muslim*, Kitāb al-Musāqāt, Bāb al-ṭaʿām mithlan bi-mithl, Vol. III, No. 3871; also Musnad Aḥmad)

First, note the discrepancy between the two ḥadiths. The first one makes no reference to *ribā* at all, while the second draws a specific connection to *ribā*. Also, the wording is quite different. The first one says: "Do not do so. *Sell* [the lower quality dates] *for dirhams and then use the dirhams to buy janib.* [When dates are exchanged] *they should be equal in weight.*" In the second one, it says: "when you wish to buy, sell the inferior dates against something [cash] and then buy the better dates with the price you receive."

Obviously, when quoting the Prophet, they were actually describing an incident *in their own words*. Other reports of the same incident do not make any connection with *ribā*. Indeed, these ḥadīths are not about prohibition. No definitive conclusion, especially legal, can be derived from these ḥadīths. Mohammed Fadel (Faculty of Law, University of Toronto) has aptly identified it as 'prudential regulation' (Fadel, 2008).[10]

A barter of low-quality and better-quality dates may imply risk that the person seeking better dates would not fetch the true or fair market value of his low-quality produce. Indeed, when purchasing cars buyers are often recommended to sell it separately if they have a used vehicle of some value. A major financial site explains: "Selling your old car takes more time and know-how, but you can potentially get more money than when trading it in".[11]

First of note is that neither trading nor selling guarantees a higher value; it is only 'potential'. That is why the seller/trader should do his homework to determine a reasonable market value. It is only *prudent*.

However, now consider the example of the car: let's restrict/prohibit all trades for it. The only option to its owner would be to sell the old vehicle separately. One would need to factor in advertising costs, time to show the vehicle, depreciation while the vehicle is held for longer, *etc.* A more compelling factor is that there must be a buyer at the price that the seller deems reasonable. Barring all these, the seller may be stuck due to a trade prohibition or restriction. What if the seller needs the next/newer vehicle urgently?

Let's explore the exchange of dates. A fundamental problem with barter is the absence of a Double Coincidence of Wants.[12] If I must first sell my low-quality dates, I must find a buyer (who may not be interested in selling anything). What if no buyer was around (especially at a reasonable or fair price) until my dates were no longer fresh? If trading/barter was prohibited it could indeed become an unwarranted and unjustified difficulty/hardship (*ḥaraj*, as argued by Fadel).[13] Thus, although it makes little sense as a prohibition, as a 'prudential' guidance of wisdom, however, the Prophetic statement makes perfect sense.

Indeed, every single such matter should not be approached legalistically: perched upon literalism, without consideration of the *maqāṣid*, the intent behind the prohibition, or in this case, prudent guidance. Indeed, such interpretation often trivializes, as in this case, the otherwise perfectly wise and valuable guidance from the Prophet.

> ***Ḥadīth*-26**: Some juicy dates were presented to the Prophet. The Prophet's dates from [his own orchard] at al-ʿUlā were of the dry kind. He asked: "from where have you got these dates?" People replied: "We have bought one ṣāʿ of this with two ṣāʿs of our dates." He said: "don't do it. It's not right. But sell your dates and buy of this according to your need." (Suhail, p. 55, quoting *Sunan al-Nasā'ī* bi-shar'ḥ al-Suyūṭī, Kitāb al-buyūʿ, Vol. 7, No. 272)
>
> ***Ḥadīth*-27**: I had in the Prophet's [store] one mudd [of dates]. I found better [dates] being sold at one ṣāʿ for two ṣāʿs, so I bought it [the better quality] and bought it to the Prophet. He asked, "from where have you got it, Bilāl?" I said "I bought one ṣāʿ for two ṣāʿs." He said: "return it and bring back to us our dates." (Suhail, p. 55, quoting *Sunan al-Dārimī*, Vol. 2, No. 257)

So, what do these ḥadīths really signify and why did other ḥadīths of the same incident make no reference to *ribā*? As Suhail explains: "[The above] ḥadīth ends there. The reason for that order is obvious: the Prophet

lived a very simple and frugal life, even the flour for his bread was not sieved. Then how could he tolerate that just for the sake of gratification of the palate, two ṣāʿs of dates be exchanged with one ṣāʿ of better quality dates. Shāh Walīullāh Muḥaddith Dihlawī, too, has mentioned the same reason for non-permissibility of [this type of transaction, namely] *murāṭalah*" (Suhail, 1999: 55).

Since neither ḥadīth included any explicit rationale from the Prophet, the explanation by Suhail and Shāh Walīullāh Dihlawī is speculative. However, it can possibly apply only to *Ḥadīth*-27, where the Prophet asked to bring back the dates. That explanation is inadequate for ḥadīths that suggest selling of the dates first, then buying as per one's need. Sale or trade-in of a vehicle (discussed above) should be a helpful analogy to understand the problem in this context.

Regardless, another major problem exists with *ribā*-related ḥadīths available in the context of Khaybar. Any reference to *ribā* involving prohibited transactions in Khaybar must have been a later accretion or insertion because, according to authentic ḥadīths, the last revelation in the Qur'ān was about *ribā*.

> ***Ḥadīth*-28**: *Ṣaḥīḥ al-Bukhārī*, Vol. 6, No. 67: Narrated Ibn ʿAbbās: The last Verse (in the Qur'ān) revealed to the Prophet was the Verse dealing with usury (*i.e. ribā*).
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> ***Ḥadīth*-29**: *Ṣaḥīḥ al-Bukhārī*, Vol. 6, No. 64: Narrated ʿĀ'ishah: When the Verses of Sūrah al-Baqarah regarding usury (*i.e. ribā*) were revealed, God's Apostle recited them before the people and then he prohibited the trade of alcoholic liquors.
>
> ***Ḥadīth*-30**: *Ṣaḥīḥ al-Bukhārī*, Vol. 6, No. 66: Narrated ʿĀ'ishah: When the last Verses of Sūrah al-Baqarah were revealed, the Prophet read them in the Mosque and prohibited the trade of alcoholic liquors. "If the debtor is in difficulty, grant him time till it is easy for him to repay..." (2.280).

Contradiction prevails as to which verses were the last ones to be revealed. According to another ḥadīth from *Ṣaḥīḥ al-Bukhārī* (Vol. 6, No. 129), the last verse was about a different subject. But we will ignore that discrepancy in this context, focusing instead on the discussion about *ribā* and Khaybar.

The battle and conquest of Khaybar occurred in 627 AD. If the last verse or verses were about *ribā*, as mentioned in *Ḥadīth*-28, then the revelation must have been a few years after the battle/conquest of Khaybar. Thus, no

ribā-related prohibitive injunction could be connected to the incidents in Khaybar.

Ḥadīth-29 and *Ḥadīth*-30, also from *Ṣaḥīḥ al-Bukhārī*, indicate an altogether different anomaly. According to *Ḥadīth*-29, when the verses related to *ribā* were revealed, the Prophet recited those and then he prohibited the trade of alcoholic liquor. Something else is wrong here. What do the verses about *ribā* have to do with the prohibition of liquor? The prohibition is in Sūrah al-Mā'idah (5:90), revealed much earlier than were the last revelations. Was the verse prohibiting liquors revealed several years earlier than when trading was prohibited?

Also, *Ḥadīth*-30 repeated that the last verses revealed were about *ribā* and refer to and quote (2:280), but once again, no contextual connection to trade prohibition of alcoholic liquors.

It is well known that widespread spilling of wines during the final prohibition of intoxicants signaled public compliance. In the *Tafhīm al-Qur'ān*, Sayyid Abūl Aʿlā Mawdūdī's commentary on 5:90, the verse of final prohibition, explains:

> [When] 5:90 was sent down he [the Prophet] declared, "Now those who possess wine, *can neither drink it nor sell it*. They should, therefore, throw it away." Accordingly, it was spilt in the streets of al-Madīnah to run wastefully. Some people, however, asked the Holy Prophet, "May we give it as a present to the Jews?' He replied, "The One who has made it unlawful has also forbidden to give it as a present" (Mawdūdī, undated: 75).

I was unable to independently verify or identify the source from which Mawdūdī took the information. However, the same information was reported as ḥadīth albeit without source reference, in the commentary on the same topic in *Ṣaḥīḥ Muslim*. (*Muslim*, 1982: 1097, No. 2400) Therefore, the prohibition of wine shares the occasion with the prohibition of alcoholic liquor trade. This is corroborated by a ḥadīth in *Muwaṭṭa' Imām Mālik*.

> ***Ḥadīth*-31**: Yaḥyā related to me from Mālik from Zayd ibn Aslam that Ibn Walā' al-Miṣrī asked ʿAbdullāh ibn ʿAbbās about what is squeezed from the grapes. Ibn ʿAbbās replied, "A man gave the Messenger of God (pbuh) a small water-skin of wine. The Messenger of God (pbuh) said to him, 'Don't you know that Allah has made it ḥarām?' He said, 'No.' Then a man at his side whispered to him. The Messenger of God (pbuh) asked what he had whispered, and the man replied, 'I told

> him to sell it.' The Messenger of God (pbuh) said, '*The One who made drinking it ḥarām has made selling it ḥarām.*' The man then opened the water-skins and poured out what was in them ." [No. 1568; also *Ṣaḥīḥ Muslim*, Vol. III, No. 3836]

The Prophet's statement in the above ḥadīth confirms no such separate prohibition of trading in alcoholic liquors. If there were one (and public pronouncement of it), people that were with the Prophet would have known. Thus, the ḥadīths of Khaybar for prohibition of *ribā* engender problems. Readers now can assess for themselves whether these ḥadīths provide us with reliable and coherent information to resolve the definitional unclarity of *ribā*, as some people might be quick to conclude.

3.4. Ḥadīth VI: Theme – Transactions involving products (or commodity money) of composite but separable components

> ***Ḥadīth*-32** VI.: From Fuḍālah ibn ʿUbayd al-Anṣārī: On the day of Khaybar he bought a necklace of gold and pearls for twelve dinars. On separating the two, he found that the gold itself was to more than twelve dinars. So he mentioned this to the Prophet, peace be on him, who replied, "It [jewellery] must not be sold until the contents have been valued separately." (*Muslim*, Kitab al-Musāqāt, Bāb bayʿ al-qilādah fīhā kharzun wa dhahab, Vol. III, No. 3864; also in Tirmidhī and Nasāʾī)

We have explained the difficulties from applying those *ribā*-related ḥadīths to the context of Khaybar. Suhail has capably demonstrated in regard to the above ḥadīth that no ḥadīth about this particular incident or transaction is traceable to *ribā*. Both the rationale and instruction of this ḥadīth are quite simple. The initiating party in a barter trade might not realize the full market value of the product he or she wishes to exchange. Selling the item for cash and then using the cash to purchase the other item of interest would generally approximate proper market value. This has nothing to do with *ribā*. Suhail explains (1999: 57-58):

> Khaybar was a centre of Jews who happened to be very rich. So when Khaybar was conquered Muslims got a lot of booty which included silver and gold ware. Muslim mujāhids were used to a simple way of life, they did not know how to use those silver and gold wares, so they wanted to sell those wares for a trifle and get cash. Many people in fact sold at a price much lower than the actual value, that is, silver wares

> and ornaments weighing one ūqiyah were sold by them to Jews for two or three pennies, whereas the weight of one ūqiyah is several times more than two or three dinars.
>
> When the Prophet came to know that the mujāhids were carelessly selling the booty, and that too to the conquered and deceitful Jews, he ordered that the God-given wealth should not be squandered like that, that at least they should not sell for a price less than that of its weight.

In such context, separating necklace (with gemstones) and gold is expected to fetch better value for the Muslim sellers. By the way, these ḥadīths are not *mutawātir* either and thus do not guarantee certainty of knowledge.

IV. Definition or Conundrum? The Issue of ʿ*illah*

Nearly fifteen centuries after the Prophet, Muslims are still arguing whether the Tarāwīḥ prayer of Ramaḍān is twenty units or eight units, or whether *āmīn* should be spoken aloud in congregational prayers. Somehow to make a bold claim that while the Qur'ān does not define what is the prohibited *ribā*, but ḥadīths do define *ribā*, especially to be applied to our contemporary context, belies the historical legacy of our scholarship. Does citation of relevant ḥadīths help define the scope of the prohibition in modern times, or does it rather add to a formidable conundrum?

In order to comprehend the nature and the extent of the problem, it is important to refer to *qiyās* (analogical reasoning/deduction), the fourth source of Islamic jurisprudence. Especially in case of worldly matters *qiyās* generally yield no certainty of knowledge as its result is speculative (*ẓannī*), due to fallible human interpretation.

> The rule of law established by *qiyās* is probable (*ẓannī*), for generally the causes of the rules of law determined on the basis of *qiyās* and processed by *ijtihād* have been found probable (*maẓnūnah*) after a general survey of such reasonings. Hence *qiyās does not entail certainty* (*qaṭʿ*).[14]

Since in this context readers should be familiar with *qiyās*, and I have devoted one chapter[15] to a broad, introductory overview of *qiyās*, with detailed analysis of some problematic issues, there is no scope in this essay to delve into the same. Let us here deal with ʿ*illah*, a core aspect of *qiyās*.

> Technically, *qiyās* is the extension of Sharīʿah value from an original case, or *aṣl*, to a new case, because the latter has the same effective

> cause as the former. ... The main sphere for the operation of human judgment in qiyās is the identification of a common ʿillah between the original and the new case. Once the ʿillah is identified, the rules of analogy then necessitate that the ruling of the given text be followed without any interference or change. (Kamali, 2003: 264-265)

It is important to keep in mind that *qiyās* is essentially *speculative*.

> The jurist who resort to qiyās takes it for granted that the rules of Sharīʿah follow certain objectives (maqāṣid) that are in harmony with reason. A rational approach to the discovery and identification of the objectives and intentions of the Lawgiver necessitates recourse to human intellect and judgement in the evaluation of aḥkām. ... Since an enquiry into the causes and objectives of divine injunctions often involves a measure of juristic speculation, the opponents of qiyās have questioned its essential validity. Their argument is that the law must be based on certainty, whereas qiyās is largely speculative and superfluous. ... It is once again in recognition of this element of uncertainty in qiyās *that the ʿulamā' of all the juristic schools have ranked qiyās as a 'speculative evidence'*. (Kamali, 2003: 267)

> From an epistemological point of view, the most important feature of the judgements concluded through analogy by ʿillah is their being disputable. This results not only from the fact that the ʿillah, by means of which these judgments are arrived at, can never be fully established or shown to be true, therefore giving rise to different conceptions as to what constitutes a proper or acceptable ʿillah. (Shehaby, 1982: 42)

The classical scholars of Islam have dealt with the problem of applying the ḥadīths about what they identify as *ribā al-faḍl*, *ribā* applied to a number of sales/barter transactions. When turning to *qiyās*, they had to scope out an applied understanding of the ʿ*illah* (effective or efficient cause; *ratio decidendi)* for the prohibition in order to ascertain whether the prohibition's scope was larger than what those ḥadīths outlined. Anyone who contends that ḥadīth actually scopes out the prohibition must also place the challenge in perspective, since even the classical scholars as well as the respective *madhāhib* or schools of jurisprudence have been unable to resolve it. (Ali, undated)

The ḥadīths in question identify six commodities: barley, date, wheat, salt, gold and silver. The first issue is whether the prohibited *ribā* should be limited to these commodities. The Ẓāhirīs, a literalist school, do not recognize *qiyās* as a valid methodology of Islamic jurisprudence. Their conclusion is

simple. The prohibition of *ribā* applies only to the six commodities specified by the Prophet. No one has the authority to add to the list.

> On the basis of the six commodities enumerated by the Prophet there arises another question: why only these 'six commodities' were named? There were other things also that were bartered in Arabia both in kind and on credit, such as, camel, sword, armour, clothes *etc.* The Prophet could have named those things as well. *Fuqahā'* have given different answers to this question:
>
> Dāwūd al-Ẓāhirī and other Ẓāhirites opine that there is *ribā* only in these six things, *i.e.*, barley, wheat, dates, salt, gold and silver, and there is no *ribā* in the remaining things.
>
> The only rational objection to this opinion is that rice, pulses, sugar have the same qualities that are found in barley and wheat *etc.*, then why is there no *ribā* in them? This is the reason why other fuqahā' have looked for other reasons. (Suhail, 1999: 88)

Ẓāhirīs make an important point here. If the Prophet meant these six things to be only examples from which to deduce an underlying rule, where in any ḥadīth that relates to the 'six commodities' is that indicated? Would it not have been better if just one or two, or perhaps an indicative expression - such as, for example, *like* - were used?[16]

The four orthodox schools acknowledge *qiyās* as a valid methodological tool of Islamic jurisprudence. Consequently, they strive to find effective cause or *ʿillah* to identify additional or new situations, to which the prohibition may apply. Interestingly, four schools reach three (or four) different conclusions.

> According to Imām Shāfiʿī, *edibility* is the cause of *ribā* in the first four of the mentioned articles, and *valuability* [bearing a value] is the reason in the remaining two.
>
> There are two objections to this definition: there are many other things which have edibility such as meat, vegetables, fruits, milk. Then why did the Prophet not mention them?
> Secondly, no common reason for these six things has been mentioned. Otherwise everything has one or other distinctive quality. (Suhail, 1999: 88)

Instead of *edibility* and *valuability*, Ḥanafī school has an altogether-different *ʿIllah*.

> In order to eliminate these objections [to Shāfiʿi position], Ḥanafī fuqahā' traced a common feature in the 'six commodities,' that is, *measurability* and *weighbility*, and held this to be the reason for *ribā*. But the fallacy of this approach is so obvious that it does not require much argument. We admit that those six commodities were sold by weight or by measures, but this common feature should have something common with *ribā*. The logic here is this: all crows are forbidden and all crows are black, so the black colour is the reason for prohibition! (Suhail, 1999: 88)

How much divergence among these schools of jurisprudence should exist in identifying the *ʿIllah* for the prohibition of *ribā*? The Mālikī School differs from both Shāfiʿī and Ḥanafī; it considers something else as the *ʿIllah*.

> In the opinion of Imām Mālik, there is *ribā* in *storable [non-perishable] edibles* only and there is no *ribā* in any other commodity. As for gold and silver mentioned in the ḥadīth, it is secondary, that is, in itself it is not a cause for *ribā* but as they are used as a means to buy storable [non-perishable] edibles so they have been mentioned in the ḥadīth as a means to buy non-perishable edibles. (Suhail, 1999: 88-89)

As for the Ḥanbalī School, its position is similar to the Shāfiʿīs (Ali, u.d.).

Mohammad Obaidullah, an Islamic economist and a promoter of Islamic finance, attempts to present the diversity of opinions in more modern terms. However, the diversity is still obvious. Readers should draw their conclusion whether this diligent search for *ʿillah* (effective or efficient cause) leads to a congruent definition or not, just as Thomas (2006) boldly claimed.

> The Shāfiʿī school of fiqh considers the efficient cause (ʿillah) in case of gold and silver to be their property of being currency (thamaniyya) or the medium of exchange, unit of account and store of value. However, the efficient cause (ʿillah) of being currency (thamaniyya) is specific to gold and silver, and cannot be generalized. That is, any other object, if used as a medium of exchange, cannot be included in their category. Hence, according to this version, the Sharīʿah injunctions for ribā prohibition are not applicable to paper currencies. The Mālikī view also considers the efficient cause (ʿillah) in case of gold and silver to be their property of being currency (thamaniyya) or the medium of exchange, unit of account and store of value. However, according to this view, even if paper or leather is made the medium of exchange and

> is given the status of currency, then all the rules pertaining to naqdayn, or gold and silver apply to them. Thus, according to this view, exchange involving currencies of different countries at a rate different from unity is permissible, but must be settled on a spot basis. As far as the Ḥanbalī view is concerned, different versions attributed to Aḥmad Ibn Ḥanbal have been recorded as documented in al-Mughnī by lbn Qudāmah. The first version is similar to the Ḥanafī version while the second version is close to the Shāfiʿī and Mālikī version. (Obaidullah, 1999: 7)

Also, relevant in this context is *The Text of the Historic Judgement on Interest* by the Supreme Court of Pakistan, a relevant part of which was authored by Justice/Mufti Muhammad Taqi Usmani. Usmani is one of the leading religious experts on Islamic finance and much sought after by Islamic financial institutions for their Sharīʿah Boards. In the *Historic Judgement*, he identifies excess over principle as the *ʿillah*.

> ... [T]he application of a law depends on the Illat and not on the Hikmat. ... The Illat (the basic feature) on which the prohibition is based is the excess claimed over and above the principal in a transaction of loan, and as soon as this Illat is present, the prohibition will follow regardless of whether the philosophy of the law is or is not visible in a particular transaction.[17]

Several points to be noted. First, *ʿillah* here is categorically delinked from *ḥikmah* or underlying wisdom/rationale. It is rather a dangerous proposition, reflecting a purely legalistic approach. Also, quite typical of many religious scholars, Mufti Usmani discusses the difference between *ʿillah* and *ḥikmah* without mentioning that his analysis reflects only the Ḥanafī and Shāfiʿī position, but not Mālikī and Ḥanbalī position.

> The majority view maintains that the rules of Sharīʿah are founded on their causes (*ʿilal*), not in their objectives (*ḥikam*). From this, it would follow that a *ḥukm sharʿī* is present even if its *ʿillah* is not, and *ḥukm sharʿi* is absent in the absence of its *ʿillah* even if its *ḥikmah* is present. The jurist and the judge must therefore enforce the law whenever its ʿillah is known to exist regardless of its *ḥikmah*...
>
> The Mālikīs and the Ḥanbalīs, on the other hand, do not draw any distinction between the *ʿillah* and the *ḥikmah*. In their view, the ḥikmah aims to attract an evident benefit or preventing an evident harm, and this is the ultimate objective of the law. When, for example, the law allows the sick not to observe the fast, the ḥikmah is the

> prevention of hardship to them. Likewise the *ḥikmah* of retaliation (*qiyās*) in deliberate homicide, or of the ḥadd penalty in theft, is to protect the lives and properties of the people. Since the realisation of benefit (*maṣlaḥah*) and prevention of harm (*mafsadah*) is the basic purpose of all the rules of Sharīʿah, it would be proper to base an analogy on the *ḥikmah*...
>
> The Ḥanafis and the Shāfiʿīs, however, maintain that ʿ*illah* must be both evident and constant. In their view the ʿ*illah* secures the *ḥikmah* most of the time but not always. (Kamali, 2003: 276-277)

Thus, the position that Mufti Usmani articulates is essentially Ḥanafī and Shāfiʿī although he did not disclose it in the *Historic Judgement*. The tendency to delink the injunctions from their *ḥikmah* stems from a religious-dogmatic mindset. Indeed, some scholars have shown aversion to research for the wisdom or rationale behind any injunction. Al-Shāṭibī, a prominent Islamic scholar from the 14th century AD, considered such search repugnant in the context of one's sincerity to obey God.

> Al-Shāṭibī suggests that one should not look to the motives and objectives of the injunctions. A believer should surrender himself to the will of God. The divine injunctions, are, in fact, the manifestation of the divine will. He presumed that looking to the motives and purpose of injunctions is repugnant to sincerity in the obedience to God. This is because he abides by a rule of law for the sake of its motive and not for the sake of God.[18]

Secondly, the ʿ*illah* is defined as "excess claimed over and above the principal in a transaction of loan." However, some ḥadīths contradict the definition since the Prophet himself paid a sum in addition to the principal. We cited earlier, "*Every* loan that attracts a benefit/advantage is *ribā*" (see *Ḥadīth* 6-*Ḥadīth* 8 above).

A third and quite illuminating aspect is an illustration from Mufti Usmani, which confirms that shallow arguments can be used even by leading or foremost authorities. Usmani explains why *ẓulm* (injustice or oppression) can't be accepted as ʿ*illah*.

> The principle is that the application of a law depends on the ʿIllat and not on the Ḥikmat. In other words, if the ʿIllat (the basic feature of the transaction) is present in a particular situation while the Ḥikmat (the wisdom) is not visualized, the law will still be applicable. This principle is recognized in the secular laws also. Let us take a simple example.

> The law has made it compulsory for the vehicles running on the roads to stop when the red street light is on. The ʿIllat of this law is the red light, while the Ḥikmat is to avoid the chances of accidents. Now, the law will be applicable whenever the red light is on; its application will not depend on whether or not there is an apprehension of an accident. Therefore, *if the red light is on, every vehicle must stop, even though the roads of both sides have no other traffic at all.* (Usmani, section 119)

Let us evaluate the example of red light as *ʿillah*. Yes, the law requires all vehicles to stop on red light, even when other sides have no traffic. However, when this rule (and it is an important, generally life-saving rule) is delinked from *ḥikmah* (wisdom) the life-saving rule can also become life-claiming. Suppose a vehicle has stopped at red light and there is no other traffic. However, a tornado is right behind the stopped vehicle. *ʿIllah* (delinked from wisdom), as unconditionally stated by Mufti Usmani, would indicate that the vehicle still must wait. Period. However, *ʿillah* (still connected with the wisdom) would dictate that the vehicle ignore the red light (even at the cost of a traffic citation). If the red light was taken seriously, then under certain circumstances the life-saving red-light could also be life-claiming. If such an *ʿillah* could be identified for mechanical application (without any human judgement or wisdom affording flexibility) it would be most welcome. However, this is precisely where legalism fails us by insisting on such mechanical, precise, invariable *ʿillah*.

Fourthly, using this *ʿillah* and *ḥikmah* distinction he makes another argument that undermines the very Qur'ānic concept of justice (*ʿadālah*).

> ... after prohibiting the transaction of *ribā*, the Holy Qur'ān has mentioned the *Ẓulm* as a *Ḥikmat* or a philosophy of the prohibition, but it does not mean that prohibition will not be applicable if the element of *Ẓulm* appears to be missing in a particular case. The *ʿIllat* (the basic feature) on which the prohibition is based is the excess claimed over and above the principal in a transaction of loan, and as soon as this *ʿIllat* is present, the prohibition will follow regardless of whether the philosophy of the law is or is not visible in a particular transaction. (Usmani, Section 120)

> Any relative term which is ambiguous in nature cannot be held to be the ʿIllat of a particular law because its existence being susceptible to doubts and disputes, it would defeat the very purpose of the law. *The Ẓulm (Injustice) is a relative and rather ambiguous term the exact definition of which is very difficult to ascertain. Every person may have his own view about what is or what is not Ẓulm.* (Usmani, Section 121)

If this assessment of the notion of justice/fairness (ʿ*adālah*) is correct, then the pristine Islamic concept of justice as mentioned in the Qur'ān would lose functional relevance. The Qur'ān categorically calls for justice as one of its hallmark principles and values.

> O ye who believe! *Stand out firmly for justice*, as witnesses to God, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: for God can best protect both. Follow not the lusts (of your hearts), lest ye swerve, and if ye distort (justice) or decline to do justice, verily God is well-acquainted with all that ye do. (Qur'ān, 4; 135)

> O ye who believe! *Stand out firmly for God, as witnesses to fair dealing*, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well-acquainted with all that ye do. (Qur'ān, 5: 8)

The Qur'ānic call for justice presupposed on people's understanding of the word. If justice (or injustice) should be elusive, ambiguous or *relative*, the clarion call becomes vacuous. Mufti Usmani might not have considered such ramifications when writing the *Historic Judgement*.

Fifth, with *qiyās* as a methodology of human reasoning, the search for ʿ*illah* as its part is inherently speculative. However, Usmani's position is typically-orthodox: the determination of ʿ*illah* is arbitrary. In the Qur'ān, the principle is explicated: *wa ʿin tubtum fa-lakum ruʾūsu amwālikum lā taẓlimūna wa-lā tuẓlamūn*; which means: "(a) if ye turn back, ye shall have your capital sums: (b) *Deal not unjustly, and ye shall not be dealt with unjustly.*" (Qur'ān, 2: 279). However, part (a) is recognized as ʿ*illah*, delinking it with (b). This approach is unacceptable.

> Jurists ... generally do not discuss why one person would want to sell a measure of wheat for an equal measure of wheat, particularly on an on-the-spot basis." It seems that the intended meaning of the ḥadīth was not very clear even to many jurists. For instance, some jurists thought that the prohibition of *ribā* in what came to known as ribā al-faḍl (*ribā* involving an excess in one of the countervalues mentioned in the ḥadīth) was to be observed and complied with ... *without probing into the reasons for the prohibition*. For these jurists, as reported by Riḍā, the purpose of the prohibition of ribā al-faḍl was not comprehensible but still had to be complied with.

> This confusion among jurists appears to have been due to their total disregard for the rationale (ḥikmah) of the prohibition of *ribā*. (Saeed, 1996: 32)

Notably, the "reason why the scholars have regarded *ḥikmah* as minor and unimportant appears to be that the *ʿillah* could be used objectively and easily ... a decision arrived at on the basis of ʿillah could remain 'immutable'" (Saeed, 1996: 32). However, the outcome of the delinking of *ʿillah* (efficient cause) and *ḥikmah* (rationale/wisdom) led to sizeable disagreements as to how to apply *qiyās* to *ribā*, especially in *ribā al-faḍl*. Indeed, conclusions of various schools are often remarkably divergent/contradictory.

> The inadequacy of the *ʿilla* approach is glaringly obvious in the discussion of *ribā* in both the early and the modern period. In the case of *ribā* as prohibited in the sunna for instance, each school of law arrived at an *ʿilla* which had nothing to do with the circumstances of the transaction, the parties thereto, or the importance of the commodity to the survival of society. There was no emphasis on the moral aspect. This approach, which could be described as superficial and devoid of moral and humanitarian considerations, led to some amazing conclusions by several jurists. Coins like fils (note: a unit of currency made of a metal which is not gold or silver and was used in some parts of the Muslim world), for instance, did not involve *ribā*, according to Shāfiʿīs. Thus, one hundred fils could be exchanged for two hundred either on the spot or on a deferred delivery basis. If this is maintained, then obviously today's fiat [*i.e.* paper] money could also be put in this category, since it is neither gold nor silver currency. Commodities which were countable, like apples or eggs, did not involve *ribā*, and hence could be exchanged less for more, according to some jurists. A piece of cloth could be exchanged for two pieces of the same quality and measure since it was neither 'currency' nor 'measurable' nor 'weighable', nor a 'foodstuff'. A commodity to which the *ʿilla* did not apply could not be susceptible to *ribā* (māl ribawī) whatever the importance of that commodity to the well-being of the community. ...
>
> The lack of moral emphasis in the juristic interpretation of *ribā* has also led to some other unfortunate developments as in the case of *ribā*-related ḥiyal. From the medieval period to the present day, it has been possible to advance loans at exorbitant rates of interest using fictitious transactions. Similarly, the six commodities and other goods likely to involve *ribā* could be exchanged. Many jurists would not regard such acts as reprehensible since they are perfectly in line with their legalistic thinking. These jurists accord greater importance to the legal form

> of the transaction than to the moral consequences. As long as the transaction literally does not fall into the definition of *ribā*, as provided by each school of law, the transaction would not be regarded as such. (Saeed, 1996: 37-38)

Clearly, those who regard 'edibility' as *ʿillah* do not consider a piece of cloth as subject to *ribā*. For them, eggs, apples, chili pepper, onions would be covered by *ribā* due to their edibility. However, for the Mālikīs, these items would not be subject to *ribā* because these are *not* storable (non-perishable) edible.

These problems arose because Muslim jurists in general were not interested about the reason for the original *ʿillah*.

> It should be made clear at the outset that on the whole, Muslim legal theorists were not basically interested in analyzing the ways for discovering the reason why a certain judicial judgment was stated. Rather they were looking for some methodological rules that would help them in deciding whether to accept or reject a given *ʿilla*. (Shehaby, 1982: 37)

Are we, thus, better off using *ʿillah* without reference to *ḥikmah* (rationale/wisdom), as articulated by Mufti Usmani in the *Historic Judgement*? Are we closer to a definition, as claimed by Thomas? Fazlur Rahman, an eminent scholar of the twentieth century, aptly summarized the findings of his thorough analysis of the ḥadīths about *ribā*: "In short, no attempt to define *ribā* in the light of Ḥadīth has been so far successful" (Rahman, 1964: 20). Of course, we have not yet added those ḥadīth that only add to the difficulty of deriving any criteria or *ʿillah*. For example:

> Narrated Saʿīd ibn Zayd: The Prophet said: "The most prevalent kind of usury (*ribā*) is going to lengths in talking unjustly against a Muslim's honour." (*Sunan Abū Dāwūd*, Vol. 3, No. 4858)[19]

This ḥadīth warrants some observations. One of the four myths about the ḥadīth cited earlier was "There is no contradiction in any ḥadīth." In the same collection of Abū Dāwūd, the very next ḥadīth narrates exactly the same issue, but without any reference to *ribā*.

> Abū Hurayrah reported the Apostle of God as saying: "Among the gravest sin (*akbar al-kabīrah*) is going to lengths in talking unjustly against a Muslim's honour …" (*Sunan Abū Dāwūd*, Vol. 3, No. 4859)

Notably, the two ḥadīths #4858 and #4859 differ on the mention of *ribā* or the lack thereof. Such differences render quite difficult the task to draw definitive legal conclusions about a matter as important as *ribā*, since it includes deployment of interpretive, speculative tools such as *qiyās*.

The reality of *qiyās* as applied to *ribā* in search of the ʿ*illah* (efficient cause) exposes the fundamental pitfall with the traditional approach that has broadened the scope of *ribā* throughout history. Zaki al-Din Badawi's comments sum it up. A noted Egyptian scholar in twentieth century, Zaki was the first to hold a view similar to Sanhūrī's, in the non-orthodox tradition of Muḥammad ʿAbduh, Rashīd Riḍā *et al.* He retracted his position later on and returned to the orthodox position with broad scope of prohibition of *ribā* which included interest on loan in modern times. Nevertheless, after evaluating the conflicting positions of various schools on ʿ*illah* for *ribā*, Badawi admits:

> ... [T]he underlying causes determined by the jurists, who uphold [the validity of] analogy, *collapsed* – using the terminology of Ibn Rushd, the philosopher – almost in their entirety. The reason is that not only did the jurists of each school save back any energy in criticizing and *demolishing* the causes determined by the others, but the Ẓāhirīs refuted the arguments too. (Badawi, 2008:189)

Indeed, failure to establish a unique ʿ*illah* became a test case of *qiyās* as a methodological tool, as it is really a probabilistic tool. ʿ*Illah* as a tool simply did not work in case of *ribā*.

> Some of them made an effort to explain the reason for this vacillation with respect to the ʿ*illah* of *ribā*. Thus, al-Muqbalī says in al-Baḥr, "The prohibition has various reasons." The summary of his statement is: It exists either for a meaning found in the same object for which the ḥukm has been laid down, and there is no basis for a disagreement in this, but the question here is whether this meaning is indicated by an evidence that is *probable*? They did not come up with an evidence for this, but argued on the basis of the process of elimination (*ṣabr*). This is like saying that the ʿ*illah* is this as well as this, and then declaring all as invalid, except one, which is determined to be the ʿ*illah*. It is well known that his method yields merely a probable ʿ*illah*. The original rule operating is that there is no ʿ*illah* and it is believed that the Sharīʿah does lay down an ʿ*illah* as a whole, but as long as there is no evidence pointing to an ʿ*illah* it will amount to ritual [not-rational] obedience, because this is the meaning of there being an ʿ*illah* and not that it has no ʿ*illah* at all. (Badawi, 2008: 189-190)

The claim that interest is prohibited as per the Qur'ānic prohibition of "no excess over the principal" without consideration of "Deal not unjustly, and ye shall not be dealt with unjustly" - both in the same verse - illustrates a mechanical and legalistic approach; it asserts that the jurists are to apply *ʿillah* without regard to rationale or wisdom. Thus, while the orthodox exponents of Islamic finance and banking, armed with the injustice and exploitation argument, routinely offer pious statements about Islam's prohibition of *ribā* (and interest, as part of the *ribā*-interest reductionism), to them both issues – injustice and exploitation - become immaterial or irrelevant to them in terms of application (Farooq, 2007c).

V. Conclusion

The limited purpose of this essay is to explore whether the commonly cited ḥadīths to define *ribā* hold up as claimed. While the Qur'ānic prohibition can be easily understood in the case of *ribā al-jāhiliyyah*, and the rationale for it is obvious, it is indeed a daunting task to utilize all the cited ḥadīths to define *ribā* and to broaden its scope, in particular, to contend that all forms of interest (including interest in a competitive, regulated environment) in a modern economy are prohibited. Lest it is misunderstood, the purpose of this essay is not to argue that interest is modern banking is permissible in a blanket manner; rather, it is to illuminate the challenge in defining *ribā based on ḥadith and the anomalous outcomes that traditional scholarship has produced.*

Readers might remember that Thomas, an expert in Islamic finance, asserted that these 'six' ḥadīths define what is prohibited as *ribā*. Of course, not just Thomas, but also the orthodox uses these ḥadīths to define *ribā*. But in view of this analysis, let the readers decide whether these ḥadīths should scope out the prohibition contemporarily. As this essay demonstrates, considering all the commonly cited, relevant ḥadiths *in defining ribā*, there seems to be more of a conundrum than a definition.

Notes

1. IBFnet Message #5047, Available at: <URL: http://finance.groups.yahoo.com/group/ibfnet/message/5047>, Access date: 3rd June, 2008.
2. IBFnew Message #5078, Available at: <URL: http://finance.groups.yahoo.com/group/ibfnet/message/5078>, Access date: 3rd June, 2008.
3. For a detailed discussion about these myths as well as *mutawātir/āḥād* classifications of ḥadīths and to appreciate better the contents here, see the chapter 'Islamic Law and the Use and Abuse of Ḥadīth' in Farooq (2008b, forthcoming).

4. Haddad, quoting Ibn Ḥajar from his *al-Qawl al-Musaddad fi'l-Dhabb ʿan Musnad al-Imām Aḥmad* (published by Shaykh Aḥmad Shākir in his edition of the *Musnad*).
5. Translating 'rigorously authenticated' for *ṣaḥīḥ* is rather a recent practice. Reputable scholars and academics in their works have rarely used such more presumptuously translated terms. There are even some additional problems with the usage of such translations that appear mostly in non-scholarly works. Those who have begun using it do not provide any rationale for using new translation, instead of the terms commonly used by the scholars. For more, see Mohammad Omar Farooq, "Ṣaḥīḥ as 'Rigorously authenticated' and Hasan as 'Authenticated': Unwarranted translations and creating misperceptions" [Unpublished essay, IBFnet, message #5722, November 21, 2006, accessed on June 3, 2008 at http://finance.groups.yahoo.com/group/ibfnet/message/5722]
6. Al-ʿAsqalānī, al-Ḥāfiẓ Aḥmad Ibn Ḥajar, *Bulūgh al-Marām min Adillat al Aḥkām*, (multilithed material, I 25), quoted in Emad H. Khalil, "An Overview of the Sharīʿah prohibition of *ribā*," in Thomas, p. 67, n38. A similarly reported narration is from Ibn ʿAbidīn, *Radd al-Muḥtār, sharḥ tanwīr al-abṣār*, Kitāb al-buyūʿ, Bāb al-murābaḥah wa'l-tawliyah (Beirut: Dār al-Kutub al-ʿilmiyyah, 1994, vol. 7, pp. 294f (ed.), quoted in Suhail, p. 83. For more details, see Farooq, 2007c.
7. Mufti Usmani quoted this in the "The Text of the Historic Judgement on Interest" (item No. 101), while acknowledging that this is a disputed ḥadīth at best (No.102-No.103).
8. Quite interestingly, while there are quite a few ḥadīths about *qarḍ* (loan) in ḥadīth, there does not seem to be any ḥadīth referring to *qarḍ ḥasan*, the expression in the Qur'ān. My search in *al-Muʿjam al-Mufahras li-alfāẓ al-Ḥadīth*, the concordance of nine major ḥadīth collections (Bukhārī, Muslim, Abū Dāwūd, Nasā'ī, Tirmidhī, Ibn Mājah, Muwaṭṭa', Musnad Aḥmad and Dārimī), did not turn up any mention of *qarḍ ḥasan*. Why does the Qur'ān refer to *qarḍ ḥasan*, but the expression does not occur in ḥadīth? One plausible reason is that *qarḍ* is much broader than *qarḍ ḥasan*. While any excess payment on *qarḍ ḥasan* (a charitable loan of benevolence) does not make any sense, and thus the prohibition of any excess is quite meaningfully covered in the Qur'ān, the same may not apply to *qarḍ* in general. For more details, see Farooq, 2008a.
9. Saeed, p. 30, quoting Rashīd Riḍā, *al-Ribā wa'al-Muʿāmalāt fi'l-Islām*, Cairo: Maktabat al-Qāhirah, 1959, p. 11.
10. Also, see IBFnet message #5773, Available at: <URL: http://finance.groups.yahoo.com/group/ibfnet/message /5773>, Access date: 3rd June, 2008.
11. Available at Bankrate.com website <URL: http://www.bankrate.com/brm/news/auto/car-guide-2004/trade-or-sell1.asp>, Access date: 3rd June, 2008.
12. For an explanation, see Wikipedia, Available at: <URL: http://en.wikipedia.org/wiki/Coincidence_of_wants>, Access date: 3rd June, 2008.
13. IBFnet message #5840, Available at: <URL: http://finance.groups.yahoo.com/group/ibfnet/message/5840>, Access date: 3rd June, 2008.
14. Hasan (1986), pp. 24-25, referring to Baḥr al-ʿUlūm, *Fawātiḥ al-Raḥamūt*, Baghdad, 1970, II, 249.
15. See the chapter 'Qiyas (Analogical Reasoning) and Some Problematic Issues in Islamic law' in Farooq, 2008b.
16. It is argued that, even with the validity of *qiyās* as a source of Islamic jurisprudence accepted, extending the prohibition beyond the six commodities may violate one of the conditions for valid qiyās. "The fifth condition for the validity of qiyās is that the wordings of law of the original case should not be changed after the causation. The

reason is that a textual injunction is prior to qiyās in respect of letter and spirit. Qiyās is not valid in the presence of a textual law. Similarly, it is not valid if the words of the law of the original case are changed. ... [for example] ... The Prophet has allowed to kill only five reptiles specified by him within the premises of ḥarām (sacred territory at Mecca). The analogy of these reptiles cannot be extended to other animals because the causation changes the words of the text. As such, the number of animals exempted by the Prophet will be more than five. Hence this cannot be allowed." (Hasan, 1986, p. 23)

17. Muhammad Taqi Usmani. See the segment "Basic cause of prohibition".
18. Hasan, 1986, p. 164; quoting al-Shāṭibī, *al-Muwāfaqāt*, Tunis, 1302 AH, I, 125, 130-31.
19. The text in the original Arabic book is: "Inna arbā al-ribā al-istiṭālah fi 'irḍ al-muslim bi-ghayr ḥaqq." (Vol. II, #4876. Arabic Abū Dāwūd is a two-volume collection, while the English translation is in three volumes.)

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