

**Forbidden Methods of Acquiring Property in Quran  
&  
An Evaluation of Interest Prohibition in terms of Law**

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## Abstract

The moral guidance and legal sanctions of Quran have always been subject to confusion. One of the main reasons behind this problem is the majority of Muslims' ages of distance from the literature of human rights and liberties, moreover their dislike of it based on the idea of its western origins. Yet the Quran refers to the universality of knowledge by showing that the right attitude is to be listening to whatever is being told and following whichever is the best and truest (39:18). It even argues that the verses of Quran can only be proved to be of divine nature by the help of experiment and observation (41:53). Hence the verses of Quran on transactions should be considered in the light of reason and empirical evidence that is the common experience of all mankind as far as possible.

Forbidden methods of acquiring property in Quran are considered in two concepts. These concepts are "batil" and "soht" as they appear in Quran. In short, the concept of "batil" stands for economic transactions that are both a sin and a crime, while the concept of "soht" stands for economic transactions that are only regarded as a sin.

The methods under the concept of *batil* are subject to both religious and legal sanctions and hence regarded as a crime such as robbery, bribery, theft, fraud, etc. As a result of these actions, the property is not acquired *de jure* despite it is acquired *de facto*. The ownership rights are not granted to the party that actually holds the property. Therefore the public authorities have a right and a responsibility to take the property back by force from the possession of its holder. The common features of these actions in terms of acquiring property are the lack of consent or an objective harm to third parties during the process.

On the other hand, the methods under the concept of *soht* are those which are regarded as a sin but involve mutual consent and only self-harm (if any) such as earning from interest; the sale of liquor, drugs and pork, or gambling. The believing individuals are condemned for these actions and for the income earned from them, but no argument was provided for punishing them by the hands of public authorities. Muslims are enjoined to prevent one another by peaceful ways based on knowledge in abstaining from these transactions.

Our study is committed to justify this theory through the example of interest and dissolve the problem of Islamic Economics on the separation of economic transactions by sinful or illegal qualities.

Keywords: Islam, Economics, Quran, Law, Property, Interest, Usury.

## Introduction

“Property rights” is a bundle of natural rights which is accepted to be fundamental for every human being. It includes the right to acquire a property as well as to own, to enjoy and to dispose of it in whichever way desired by its holder. Property rights are defended for the first time in a systematic method by the 17<sup>th</sup> century English philosopher John Locke. It soon influenced many thinkers and became a prominent element of anglosaxon political tradition and constituted one of the major topics of modern political thought.<sup>1</sup>

How does the Quran evaluate the methods of acquiring property and which methods are forbidden in terms of it? Are there differences between the legal consequences of its prohibitions? How far does the inviolability of private property reach? Is usury a crime? Then what is the punishment for the usurer? We will try to deal with these questions in this work.

Property corresponds to the word “mal” and its plural “amwal” in Quran. The word comes from the root “M-W-L”. It is mentioned 86 times with all of its forms and it is always attributed to human beings.<sup>2</sup>

One of these verses is as follows:

*“Believers! Do not acquire/consume each other’s properties illicitly, but trade by mutual consent, so that you won’t kill yourselves. God is so merciful towards you.” (4:29)*

This verse restricts the transfer of property to the rule of “mutual consent” and it regards transactions that lack mutual consent as illicit (Arabic: “batil”). The phrase “so that you won’t kill yourselves” indicates that illicit transactions will harm the society and calls for intervention from the institutions responsible for public safety. So we might argue that all transactions that lack mutual consent are illegal in terms of Quran. We can test this argument by another verse that deals with non-consensual property transfer, in other words, theft:

*“As for the thief, whether male or female, cut their hands as a penalty for what they have reaped and as a deterrent from God. God is mighty and wise.” (5:38)*

So we see that the rule of mutual consent in verse 4:29 is not prescribed as a religious rule only, but a legal rule as well. In other words, Quran states that anyone who ignores this verse and acquires a property without having the consent of its owner is not just a sinner, but also a criminal that should be punished.

Another verse on the subject is as follows:

*“Do not acquire each other’s properties by illicit means, nor offer it as bribe to the officials in order to acquire part of other people’s properties wrongly and deliberately.” (2:188)*

The same beginning sentence shows that “bribery” is also regarded as an illicit (batil) method of property transfer (i.e. crime) that should be punished legally. Despite the fact that it takes place by mutual consent, some third parties are negatively affected from this

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<sup>1</sup> John Locke, “Two Treatises of Government”, London, 1823, pp.115-126

<sup>2</sup> There is only one occasion that property is attributed to God: “Let those who do not find the means to marry abstain, until God enriches them from His bounty. If any of your servants wish to be freed, grant them their wish, if you recognize some good in them. Give them of God’s property which He has given you.” (24:33)

transaction which is also implied by the phrase *“in order to acquire part of other people’s properties wrongly and deliberately”*. Since those parties are harmed without their consent, the transaction is justified to be regarded as a crime. We deduce from this example that all transactions that harm third parties against their will are regarded as a crime whether or not the active parties have consent.<sup>3</sup>

Another verse on the subject is as follows:

*“Believers! Many of the scholars and reverends acquire people’s properties illicitly and hinder them from God’s path. (...)”* (9:34)

Scholars and reverends are regarded as “opinion leaders” in a society. People often look up to them. Such respect brings a charismatic power to these people (that plays the role of political power in pre-industrial societies) which may be subject to abuse. This verse declares that many of the scholars and reverends acquire people’s properties by illegal means. The verse gives their reason as “something that hinders people from God’s path” which evokes behaviors like speaking, writing, etc. in certain ways that usually favors some parties and/or harms others wrongfully and deliberately. This kind of behavior is almost the same as bribery.

There is another group of “wrongful” transactions in Quran which is not regarded as illegal. Eventhough these transactions are declared to be bringing bad consequences, they are not regarded as a crime. Examples are the trade of intoxicants, narcotics, pork, tobacco as well as gambling and usury. These behaviors are not subject to punishment in terms of Quran since they involve mutual consent and no obvious harm to third parties.

One verse about intoxicants and gambling is as follows:

*“They ask you about intoxicants and gambling. Say: There is gross sin in them and some benefit for people. But their sinfulness outweighs their benefit. (...)”* (2:219)

It is unthinkable to talk about a criminal act and say *“there is some benefit in them”*. So we can see that gambling or using intoxicants as well as trading them are not included in the scope of illegal activities in terms of Quran. They are regarded as sins.

Other verses on the subject are as follows:

*“Believers! Intoxicants, gambling, idolatry and divination are dirty works of the wicked. Avoid them, so that you may prosper. Wicked people want to provoke strife and hatred among you through intoxicants and gambling, and to prevent you from remembrance of God and from prayers. Will you not desist?”* (5:90-91)

These verses ask people to avoid intoxicants, gambling, idolatry and divination by showing them the possible negative consequences. The verse does not talk about harming others in any way. So we can argue that any transaction concerning these behaviors is actually regarded as a sin, rather than a crime. Also the phrase *“will you not desist?”* would make no sense if these behaviors were considered illegal.

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<sup>3</sup> This principle is now referred as the “harm principle” and commonly attributed to the famous English philosopher, John Stuart Mill because of his statement in his work titled “On Liberty” (1859) as follows: *“The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others.”* (Batoche Books, 2001, p.13)

Another evidence that shows these acts are not considered as crimes is that there are other verses which regulate the situation of those who commit them and show that it is possible (legal) to commit these acts.

The relevant verse is as follows:

*“Believers! Do not approach the prayer while you are drunk unless you know what you are saying.” (4:43)*

Verses like these show that people who disobey God by committing the forbidden act in question have the freedom to do it. Because according to Quran, *“God has shown people the right path, be them grateful or ungrateful” (76:3)* and *“there is no coercion in this religion” (2:256).*

Another example of economic transaction that is forbidden in Quran but not subject to a legal sanction is giving (or lending) money to irresponsible people. The relevant verse is as follows:

*“Do not give the irresponsible your money which God has given you as subsistence. Provide food and clothes for them instead, and speak to them with kind words.” (4:5)*

This verse also includes a prescription on property but it has nothing to do with the law. It is because we see another verse that regulates the borrowing procedure of an irresponsible person who is being given a loan. The relevant verse is as follows:

*“Believers! When you incur a debt for a certain period of time, write it down. Have a scribe write in your presence fairly. Let no scribe refuse to write as God has taught him. So let him write and let the debtor dictate. Let him fear God, his Lord, and diminish nothing from its value. If the debtor is irresponsible or weak or unable to dictate, then let his guardian dictate fairly.” (2:282)*

Despite lending to irresponsible people is forbidden in Quran, the regulation in this verse concerning the borrowing procedure of an irresponsible person shows that it is one of those prohibitions like that of intoxicants, gambling, etc. It is not regarded as a crime and hence there is no legal sanction for it. It is simply regarded as a sin and according to Quran, people that commit sins cannot be prosecuted. In fact, there are verses that provide special measures for those who sin in order to keep protecting their rights and all.

Differences like this in Quran concerning prohibitions have a vital importance. God gives information on rights and wrongs regarding every aspect of life but He imposes so few punishments for the offenders. It is inevitable for the authorities that act with a Muslim identity to be badly influenced by socialist and statist ideologies and oppress people in the name of Islam if they fail to notice these differences.

## Interest Prohibition in Quran

The word “riba” in Quran comes from the root “R-B-W”. Although it literally means “surplus”, “excess” and “increment”; it is also used in a terminological sense to express “interest bearing transactions”, “interest yield” or “usury”. Let us see the relevant verses.

*“What you give as a loan on interest seeking it to increase in other people’s property will not increase according to God. But those who give as support seeking to please God are the real gainers.” (30:39)*

*“The ones who earn from interest act like those who are under the effect of wicked people. That is because they say, ‘trade is the same as usury’ while God has permitted trade but forbidden usury. Whoever receives the advice of his Lord on this and quits may keep his past earnings. His case rests with God. Whoever continues will be the dweller of that Fire wherein he will abide forever.” (2:275)*

The phrase “may keep his past earnings” cannot be used for an illicit (batil) gain, since there will be no transfer of rights in an illicit gain. In a theft for example, the thief does not legally acquire what he gained. It is for this very reason that getting back what he illicitly gained is not regarded as a violation of his property. Because that property has never been his in the first place. It is for this reason that transactions considered a crime in Quran is referred with the word “batil” which literally means null and void. However, interest bearing transactions are not like this. Property rights are legally transferred in an interest bearing contract, because it involves mutual consent and is free of harm to third parties. Islamist thinkers tend to believe that there should be real harm in interest because of the fact that it is declared as a sin in Islam. But that is just like any other sin such as not praying, not fasting, etc. One cannot help but incline to being a total fanatic if he believes that sins have to include real harms that should be prevented no matter how.

*“God (eventually) shrinks transactions with interest and blesses financial support. God does not love sinful people who conceal the truth.” (2:276)*

*“Believers! Fear God and forgo what remains of the loan on interest, if you are really believers.” (2:278)*

The phrase “forgo what remains...” in this verse is obviously directed to the creditors. If it were an illegal transaction, the creditor would never be entitled to what remains of that loan (interest) and the addressing would be expectedly directed to the public authority instead. Yet God recognizes the creditor as the rightful owner of his claims.

*“For those who were judaized, We have forbidden them good things that used to be lawful for them because of their wrongdoings and their perversion of many from God’s path. We did it because of their usury, although they were forbidden from it, and because of their acquisition of people’s wealth illicitly. We have prepared for the faithless among them a painful torment.” (4:160-161)*

This verse considers usury and illicit transactions as two separate groups. If usury were one of the illicit transactions, it would be grammatically wrong to mention it again separately. God is obviously far from violating the rules of grammar.

*“They listen to falsehood and earn from sinful transactions. If they come to you for judgment, you are free to judge or turn away from them. If you turn away from them, they cannot harm you in the least. But if you judge, then judge them with equal treatment. God loves the equitable.” (5:42)*

The Arabic word translated as “sinful transactions” in this verse is “soht”. It signifies all sinful transactions that are not illegal such as those that bear interest. Quran actually separates the wrong transactions as “batil” (illegal, illicit, illegitimate, invalid, impermissible, unlawful, null and void) and “soht” (sinful, immoral, unethical). *Batil* transactions are those that are punishable by God and by people such as theft. *Soht* transactions are those that are only punishable by God, but not by people. Transactions that are forbidden by Quran in this context are non-prosecutable.

Permission to nonsuit arises from the principle of legal pluralism in Quran.<sup>4</sup> The verse actually talks about judaized people and states that they cannot harm muslims if they are left alone doing their sinful transactions which also include usury as we know from the previous verse. So it forms a clear evidence that usury involves no prosecutable harm. It would be unthinkable to allow a decision of nonsuit otherwise.

Quran states that people certainly have a responsibility to warn others against sinful, immoral transactions, but expects it from the civil society.

*“Cooperate with one another in virtuous conduct and conscience. Do not cooperate with one another in sin and hostility. Fear God. God is severe in punishment.” (5:2)*

*“You see many of them competing with each other in sin and hostility, and acquiring people’s properties illicitly. What they have been doing is truly evil. Why do their masters and scholars not prevent them from their sinful words and sinful transactions? What they have been producing is truly evil.” (5:62-63)*

These verses show that warning people against immoral behavior as well as the sinful economic transactions like usury is a responsibility of the opinion leaders of a society like masters and scholars. It therefore outlaws the prosecution of these acts.

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<sup>4</sup> Quran prescribes that groups with different system of cultural, political or religious values may be subject to different legal systems. See Quran 5:43, 5:47-48, 109:6.

## Replies to Possible Objections

Scholars with an approach that favors government intervention on usury often do not provide any evidence but a superficial reading of the verses on interest prohibition. But those who try to prove it provide the following 2 statements as evidence.

### 1- The “notice of war” in verse 2:279 and its association with verse 5:33 (Evidence from Quran)

*“Believers! Fear God and forgo what remains of the loan on interest, if you are really believers. If you do not, then take notice of a war by God and His Messenger. But if you repent, you may keep your capital. Do not be unfair to each other.” (2:278-279)*

*“The punishment for those who make war with God and His Messenger, and strive to spread corruption on earth, is that they be killed, or crucified, or have their hands and feet cut in consequence of their opposition (against public order), or be banished from the land. That is to disgrace them in this life. They will also have a terrible punishment in the afterlife.” (5:33)*

The phrase “God and His Messenger” in these verses are often interpreted as “society” by Islamic jurists. The “notice of war” in the first verse is associated with “those who make war with God and His Messenger” in the second verse and concluded to usurers’ open war against the society with an expectation of sentencing them to the punishments prescribed in verse 5:33.

This approach is reproachable from 3 aspects.

#### *a. It is against the principles of punishment in Quran*

The underlying principle of criminal law in Quran is “sanction equivalence”.<sup>5</sup>  
*“The punishment of a wrongdoing is nothing but its equivalent.” (42:40)*

Associating verse 5:33, the verse which regulates terror crimes with usury is against the principle of sanction equivalence. First of all, usury is not a crime while terror is. Usury is realized by mutual consent while terror crimes are not. Terror crimes involve attacks against life and bodily integrity. They cause deaths and injuries. So their punishment involves -rightful- violation of the rights to life and bodily integrity of the offenders.

As regards to usury however, one cannot even argue that it involves harm for the parties, let alone their life and bodily integrity, since it is realized voluntarily. Its parties agree on the transaction. Illegalization of voluntary transactions that involve no objective harm is so wrong that it inevitably kills all freedoms and brings coercion into every aspect of our lives. Hence usury cannot be regarded as a crime and cannot be prosecuted.

#### *b. It is against the explicitness of Quran*

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<sup>5</sup> For all of the verses on this principle, see Quran 10:27, 42:40, 40:40, 6:160, 28:84, 27:90, 16:126, 22:60.



Quran states in numerous verses that it is obvious and explicit. It is ambiguous which punishment will be enforced and to whom once the phrase “making war with God and His Messenger” is interpreted as usury. Although Islamic jurists who favor this opinion generally suggest banishment, it is perfectly possible to penalize it with capital punishment based on the same reasoning. This is against the explicitness of Quran and it is evidence per se that the very interpretation is wrong.

But if the phrase is not associated with usury, then it perfectly makes sense to prescribe more than one punishment for terror crimes. Because terror crimes, or “crimes against public order” to be legally more precise, is a main heading in criminal law. Crimes under this heading may appear in the form of attacks against life, property, freedom of travel, freedom of belief, etc. Whatever form it appears in, will be the form of its punishment. If the verse is understood in this context, it will rather support the principle of sanction equivalence instead of contradicting it.

*c. It is against the historical records on the Messenger’s practice*

First of all, there is no historical record on the Messenger’s prosecuting anybody for usury, let alone kill, crucify or banish him. It is also wrong to assume that usury was not practiced in Medina. The Muslims of Medina were a minority until the Messenger of God’s last years. Even after the expulsion of Jewish community, it is estimated that Muslims formed only half of the total population.<sup>6</sup> It is sociologically wrong to assume that everybody quitted usury just because a faction in the society had quitted it for religious reasons.

Some scholars argue that the reason of Jewish community’s expulsion was their non-Islamic works like usury and so. It is not true either. The reason of their expulsion was their violation of the agreement of Medina regarding the articles on “aiding the enemy”.<sup>7</sup> This violation put the Jews of Medina in the position of enemy against Muslims. So Muhammad, the leader of Medina imposed them the lightest punishment according to the verse 5:33, the banishment.

**2- The diplomatic agreements between the Messenger of God and other communities that include illegalization of usury (Evidence from Sunnah)**

Diplomatic agreements are -by definition- an agreement, not an imposition. The communities that enter into agreement with Muhammad are not forced to these agreements. On the contrary, they did it willingly either for that they became Muslims or for the simple wish to take sides with the powerful. The Messenger of God had never attacked a community based on their refraining from making a pact with Medina.

Besides, people may lay down any condition in their agreements providing that it is not illegal. Hence all agreements feature some prohibitions that are not per se illegal. It is in fact these very conditions that caused people to make an agreement in the first place. It is therefore unnecessary to write down the general conditions in an agreement, since it

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<sup>6</sup> TDF, Encyclopedia of Islam, article: “medine”.

<sup>7</sup> Contract (Constitution) of Medina, articles: 14, 16, 22, 37, 43, 44.

won't make any sense. Agreements are all about special conditions and prohibitions. So the acts that were illegalized in these agreements are not per se illegal in Islam.

## Conclusion

Forbidden methods of acquiring property in Quran are considered in two concepts. These concepts are “batil” and “soht” as they appear in Quran. Methods considered as *batil* are subject to punishments in this world and in the afterlife. So we can consider them as crimes. The word *batil* literally means null and void. It is used in the verses about economic transactions as an adverb and hence translated as “illicitly”. This is because of the fact that property rights are not transferred in these transactions. There is no legal acquisition although there is physical acquisition. Hence public authorities have a right and responsibility to seize the victim's property from the criminal and give it back to its rightful owner. The common features of these transactions are the lack of mutual consent and an objective harm against third parties in the process. There is no legal cause other than these two, for defining a transaction as *batil* in terms of Quran.

The second type of forbidden methods in Quran is the concept of “soht”. It signifies immoral transactions that have mutual consent and no objective harm against third parties such as the trade of intoxicants, tobacco and pork or gambling as well as usury. Methods considered as *soht* are subject to punishment in the afterlife, but not in this world. It is unlawful to illegalize them in terms of Quran unless there is a public consent to it. The word is translated in the verses as “sinful transactions” and believing people are required to prevent each other from these transactions by peaceful means.

The moral guidance and legal sanctions of Quran have always been subject to confusion. One of the main reasons behind this problem is the majority of Muslims' ages of distance from the literature of human rights and liberties, moreover their dislike of it based on the idea of its western origins. Yet the Quran refers to the universality of knowledge by showing that the right attitude is to be listening to whatever is being told and following whichever is the best and truest (39:18). It even argues that the verses of Quran can only be proved to be of divine nature by the help of experiment and observation (41:53). These advices of Quran are ignored while the minds of Muslims are enslaved to political conflicts that filled them with prejudices against non-Muslims. So it pushed them back from life and scientific developments over time making them bit players of history. Hence Muslims, like everyone else who seek freedom and wealth, have to approach the common knowledge of mankind without prejudice. They have to bring their holy book to life in the light of reason and the common practice of mankind.

This work is wished to serve for this purpose.

All faults and errors are by the author, the success is by God.