

Diploma in Islamic Banking (DIB), Part-I

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Chapter:
3 & 4

Session-II

(Shari'ah Framework and Principles for Alternative Financial System & Alternative Financial Markets)

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**Islami Bank Training & Research
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Session Review

The following important topics will be covered as per [chapter 3](#) (Shari'ah Framework and Principles for the Alternative Financial System), [chapter 4](#) (Alternative Financial Markets) of Paper-101 of DIB Part-I:

1. [Shari`ah: Definition, Sources and Basic Elements](#)
2. Shari`ah Compliance in IFIs
3. [Maqasid Al Shari`ah](#)
4. Modes and Mechanisms practiced by Islamic Banks
5. [Shari`ah non compliance/violation in GB, Investment, F. Ex.](#)
6. Riba: Definition, Classification & Impact
7. [Gharar, Mysir & Other Prohibitions](#)

1. Shari`ah: Meaning & Definition

- ❑ Shari`ah Literally means, “**the path leading to the watering place**”
- ❑ in the Islamic context *Shariah* refers to the laws and commandments and way of life prescribed by Allah to mankind.

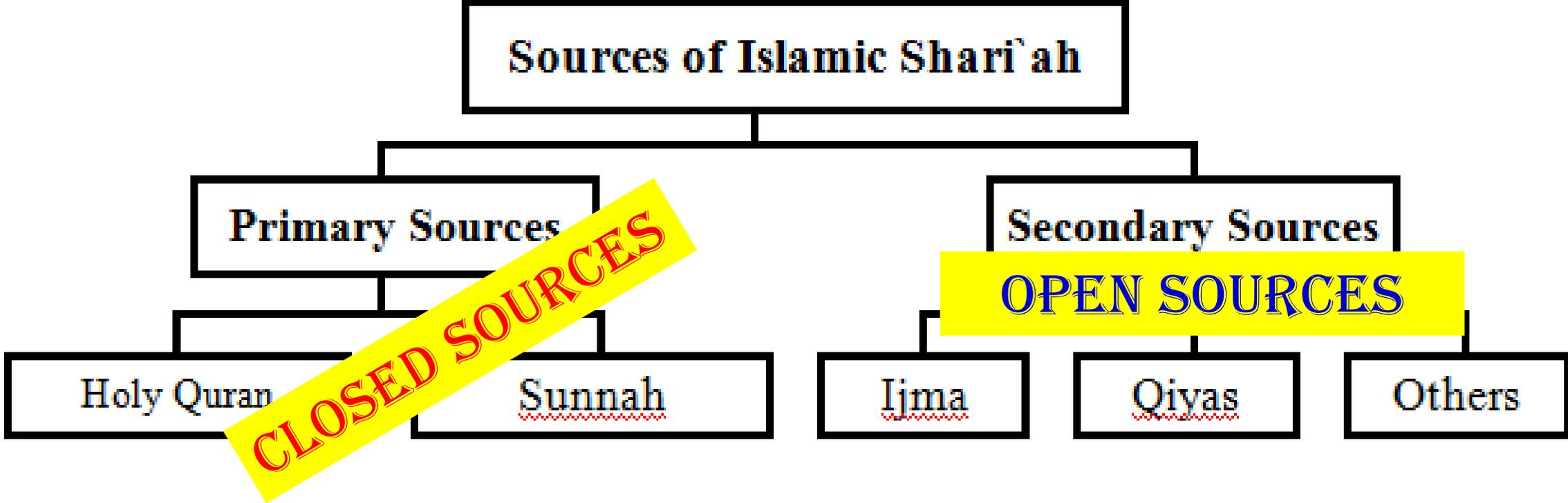
لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَاجًا

To each of you We prescribed a law and a method. [5. Sura Mayeedah : 48]

- ❑ *Shari'ah* refers to commands, prohibitions, guidance, and principles that Allah has addressed to mankind pertaining to their conduct in this world and salvation in the next.
- ❑ **Abdul Karim Zaidan** defined *Shariah* “as the path of religion and the various aspects of laws (al-ahkam) which Allah provides for his servants, i.e. human”.

It governs not only religious rituals, but also all aspects of day-to-day life in Islam.

1.1 Sources of Shari`ah



1.1 Sources of Shari`ah

Primary Sources:

1. **Quran:** Simply be translated as “The Recitation,” or “The Reading, The ultimate and divine source of Islamic law, covering spiritual, legal, and moral guidance.
2. **Sunnah:** Simply means “ways of life”. The sayings, actions, and approvals of Prophet Muhammad (PBUH), explaining and complementing Quranic teachings.

Secondary Sources:

1. **Ijma (Consensus):** Agreement among Islamic scholars on legal rulings for issues not explicitly mentioned in the Quran or Sunnah.
2. **Qiyas (Analogical Reasoning):** Deriving rulings for new issues by analogy to established cases with a shared cause.

1.1 Sources of Shari`ah

Other Sources:

- ❖ **Ijtihad (Independent Reasoning):** Intellectual effort by scholars to form new rulings where no direct evidence exists in primary sources.
- ❖ **Istihsan (Juristic Preference):** Preferring a ruling that ensures fairness and avoids hardship over strict analogy.
- ❖ **Maslahah (Public Interest):** Rulings based on the common good, protecting essential needs like life and property.
- ❖ **Urf (Custom):** Local customs that align with Islamic principles and are used in rulings on social and contractual matters.
- ❖ **Istishab (Presumption of Continuity):** Continuing an established ruling until evidence suggests a change is needed.

1.3 Role of Ijtihad and Mujtahid in Islamic Banking

- ❖ **Interpretation of Classical Texts:** Ijtihad allows scholars to interpret Islamic legal sources (Quran and Sunnah) in the context of modern financial systems.
- ❖ **Addressing Modern Financial Products:** Many modern financial products were not present during the early Islamic era. Ijtihad helps scholars analyze these innovations and determine their permissibility and applicability under Islamic law.
- ❖ **Development of New Financial Instruments:** Through Ijtihad, new Islamic financial instruments (e.g., Sukuk, Islamic bonds, and Takaful) are developed to provide alternatives to conventional banking instruments.
- ❖ **Creating Regulatory Frameworks:** Ijtihad assists in shaping Islamic banking regulations that align with both Shari`ah principles and local financial laws.
- ❖ **Customization to Local Contexts:** Ensures Islamic finance is practical in diverse regions worldwide.
- ❖ **Ethical and Social Responsibility:** Ijtihad promotes an ethical financial system that is rooted in justice, equity, and social welfare, which is integral to Islamic banking.

1.4 Importance of Ijtihad for Addressing New Financial Challenges

- ❖ **Adaptability to New Economic Realities:** Ijtihad allows Islamic banking to adapt to the fast-paced changes in the global financial environment.
- ❖ **Solving Ambiguities:** As new financial practices emerge, some issues may not have clear precedents in Islamic law. Ijtihad is crucial for resolving these ambiguities and providing a roadmap for Islamic financial institutions.
- ❖ **Encouraging Sustainable Growth:** Through Ijtihad, Islamic banking can respond to modern challenges like sustainability, economic crises, and technological advancements, thereby contributing to long-term financial stability.
- ❖ **Global Integration:** Ijtihad helps Islamic banking evolve and integrate with the global financial system without compromising on its core ethical values, making it relevant in both Muslim and non-Muslim majority countries.
- ❖ **Meeting Customer Needs:** As customer demands evolve, Ijtihad allows Islamic banks to design products and services that meet modern consumer needs.

2. Shari`ah compliance in IFIs

ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ

Then We set you on a ordained way in the matter of religion; so follow it, and do not follow the evil inclinations of those who do not know. [45. Al Jathia: 18]

Meaning of
Shari`ah Compliance
in General

Adherence, compliance, and obedience to all that Allah (swt) ordered humans in the Qur'an and obeying what his Prophet (pbuh) has ordered through *Hadith Sahih*.

Meaning of
Shari`ah Compliance
in IFIs

Shari`ah Compliance in IFI refers to comply the Shari'ah rules and principles by the IFIs which are determined by the relevant Shari`ah regulatory authority of the Bank.

3. Maqasid Al Shari`ah: Meaning & Definition

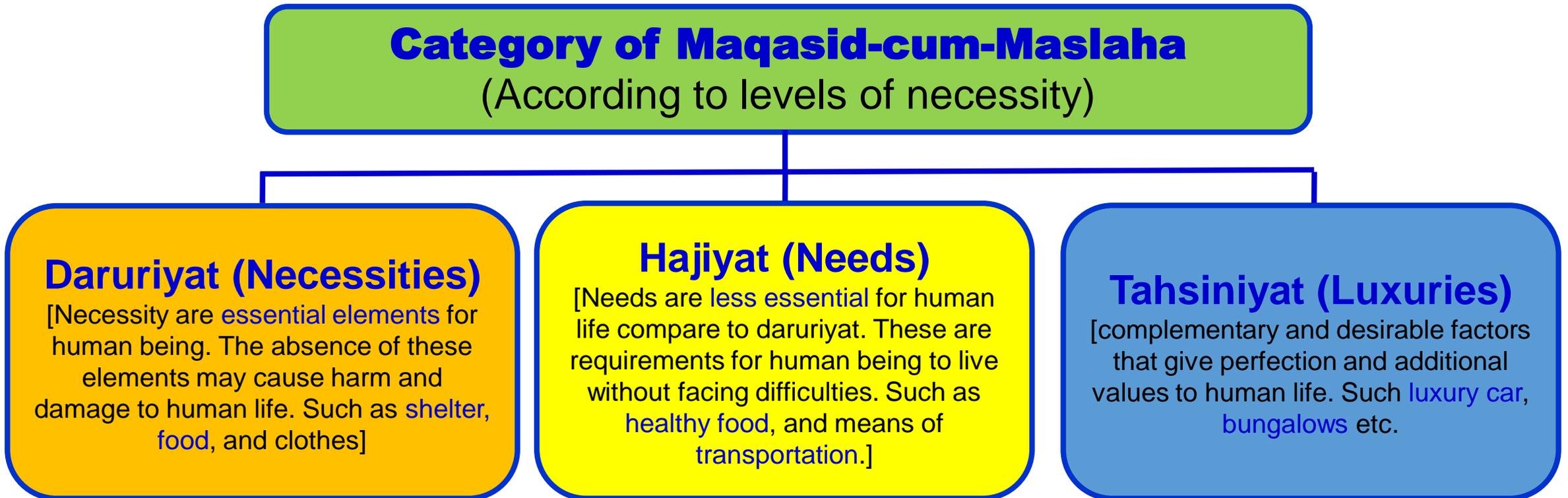
- Maqasid an Arabic word (مقاصد) plural of *maqṣad* (مَقْصِدٌ), literally means Objectives, goals, aims, desires, purposes etc.
- Maqasid al Shari`ah means the purposes or **objectives** of Shari`ah
- Maqasid can also be considered as the **wisdom and knowledge** behind rulings of Shari`h.
- **Abu Hamid Al Ghazali (d.1111)**: The very objective of the Shari`ah is to **promote the well-being** of the people, which lies in safeguarding their faith, their lives, their intellect, their posterity and their wealth.
- **Imam Abu Ishaq Al Shatibi (d.1388)**: The primary goal of the Shari`ah is to **free man from the grip of his own whims**, so that he may be the servant of Allah **by choice**, just as he is His slave no choice.
- **IFSB-AAOIFI RSGF-2022**: The fundamental principles of Shari`ah which aim to **promote and protect the interests** of all human beings and avert all harm that impairs their interests.

3.2 Maqasid al-Shari`ah as described in the Holy Quran

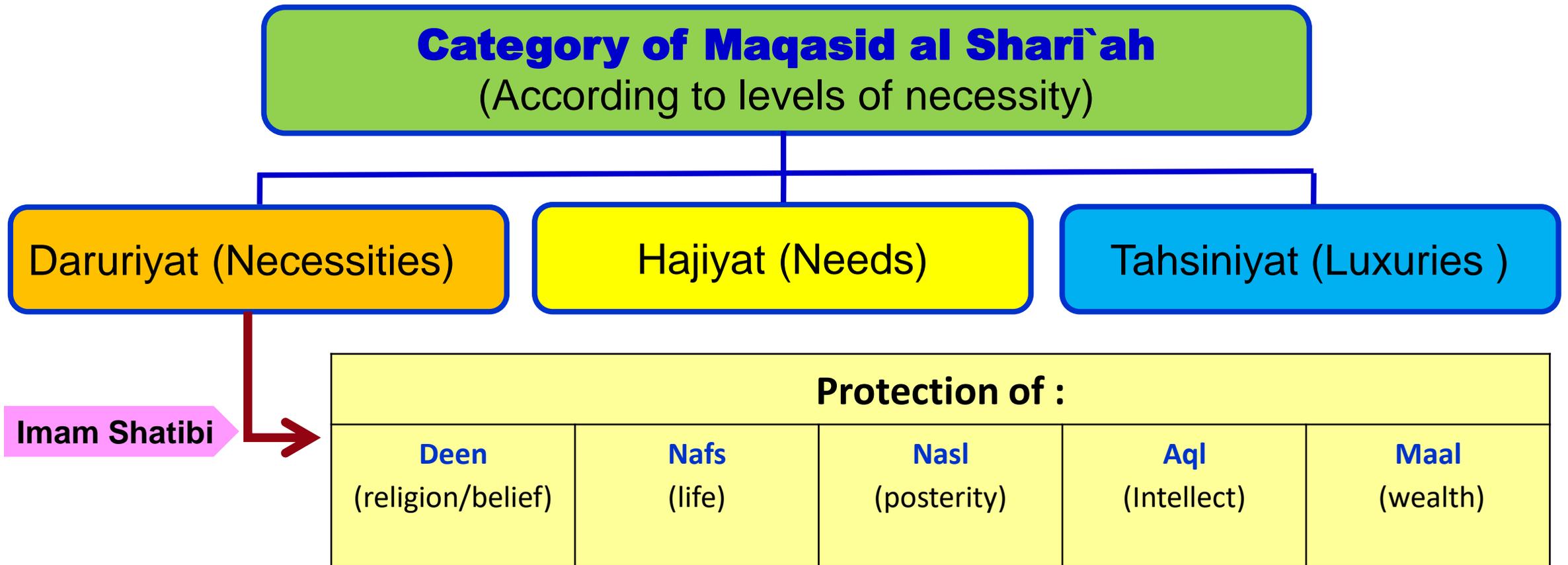
- To establish **Justice** ليقوم الناس بالقسط (Hadid-25)
- To bring **easiness** يريد الله بكم اليسر... (Baqarah-185)
- Remove difficulties ما جعل عليكم في الدين من حرج (Hajj-78)
- The **ultimate goal** of Shari`ah focuses on welfare, the benefit to the public and preventing harm (*jalb al-masalih wa dar'u al-mafasid*). This includes **welfare of mankind** here and hereafter.
(Sura Baqarah: 201) ربنا آتانا فى الدنيا حسنة وفى الآخرة حسنة.
خير أمة أخرجت للناس (Ale Imran-110)
- All these in Arabic terminology can be stated as **Maslaha or Masalih al-Ibad.**

3.4 Classification of Maqasid al Shari`ah-cum-Maslaha

Muslim jurists have classified the entire range of maqasid-cum-maslaha based upon the objectives and purposes of Islamic law into three:



3.4 Classification of Maqasid al Shari`ah-cum-Maslaha (Contd.)



3.5 Achieving Maqasid al Shari`ah in deposit mobilization

- **Compliance with Shari'ah Principles:** Islamic banks must strictly adhere to Shari'ah-compliant deposit structures such as Al-Wadiah (safekeeping) and Mudarabah (profit-sharing) contracts. This ensures that deposits are taken without involving interest (riba) or other impermissible activities.
- **Economic Welfare and Inclusivity:** To achieve the economic welfare of people by providing opportunity to all classes of people to build up savings and making the surplus/idle money/wealth of the society suitable for investment in Shari'ah approved ways.
- **Supporting Low-Income Groups:** Islamic banks play a significant role in promoting financial inclusion by encouraging small savings from lower-income groups. Specialized accounts, such as farmer accounts, student accounts, and garment worker accounts, allow marginalized segments of society to save for their future, enhancing their financial stability and contributing to poverty alleviation.

3.5 Achieving Maqasid al Shari`ah in deposit mobilization (Contd.)

Prioritization of Maqasid al Shari'ah: In designing deposit schemes, Islamic banks should focus on the five basic Maqasid al Shari'ah:

- 1. Protection of Religion (Hifz al-Deen):** Ensuring that financial practices comply with Shari'ah, thereby allowing depositors to act in accordance with their faith.
- 2. Protection of Life (Hifz al-Nafs):** Facilitating financial security for depositors, particularly for emergencies, through savings products that safeguard their livelihood.
- 3. Protection of Posterity (Hifz al-Nasl):** Offering savings schemes that help individuals secure the future of their families and children, such as family and educational savings accounts.
- 4. Protection of Intellect (Hifz al-'Aql):** Encouraging responsible financial behavior, discouraging harmful practices like gambling (maysir) or excessive speculation.
- 5. Protection of Wealth (Hifz al-Mal):** Providing safe and ethical investment opportunities, protecting the depositors' wealth from devaluation, loss, or illicit use.

3.6 Achieving Maqasid al Shari`ah in Investment

Comply with due process of Shari`ah

Investing the fund through Shari`ah compliant means/modes like, Bai-Murabaha, Bai-Muajjal, HPSM, Bai-Salam etc. and strict compliance with the Shari`ah rules and principles of respective modes of investment.

Optimum utilization of resources

Welfare of the people can be maximized by making investment in the productive and welfare sector to ensure the best use of resources without leaving it idle. The prophet PBUH said,

مَنْ كَانَتْ لَهُ أَرْضٌ فَلْيُزْرِعْهَا أَوْ لِيَمْنَحْهَا أَخَاهُ فَإِنْ أَبَى فَلْيُمْسِكْ أَرْضَهُ (Bukhari+Muslim)

A more important proof about not leaving the resource idle is the following hadith

أَلَا مَنْ وَلِيَ يَتِيمًا لَهُ مَالٌ فَلْيَتَّجِرْ فِيهِ وَلَا يَتْرُكْهُ حَتَّى تَأْكُلَهُ الصَّدَقَةُ (Tirmiji)

3.6 Achieving Maqasid al Shari`ah in Investment (Contd.)

Consideration of profit as well as people and planet

Earning profit and ensuring welfare of people and planet should be taken under consideration in case of investment disbursement.

Investing in sectors that are highly **profitable** for individuals **but harmful** to society is against Maqasid Shari'ah. Narrated by Hazrat Abu Sayid Khudri, the prophet صلى الله عليه وسلم said:

”لا ضرر ولا ضرار“

Ensuring fair and balanced circulation of resources

One of the aims of Shari'ah is to invest resources in the collective welfare rather than accumulating it **in the hands of a few**. Almighty Allah said,

... كي لا يكون دولة بين الاغنياء منكم (Sura Hasr, Verse-7)

(So that it will not circulate only in the hands of rich ones among them)

4. Modes and Mechanisms practiced by Islamic Banks

4.1 Modes of Deposit

Al Wadeah

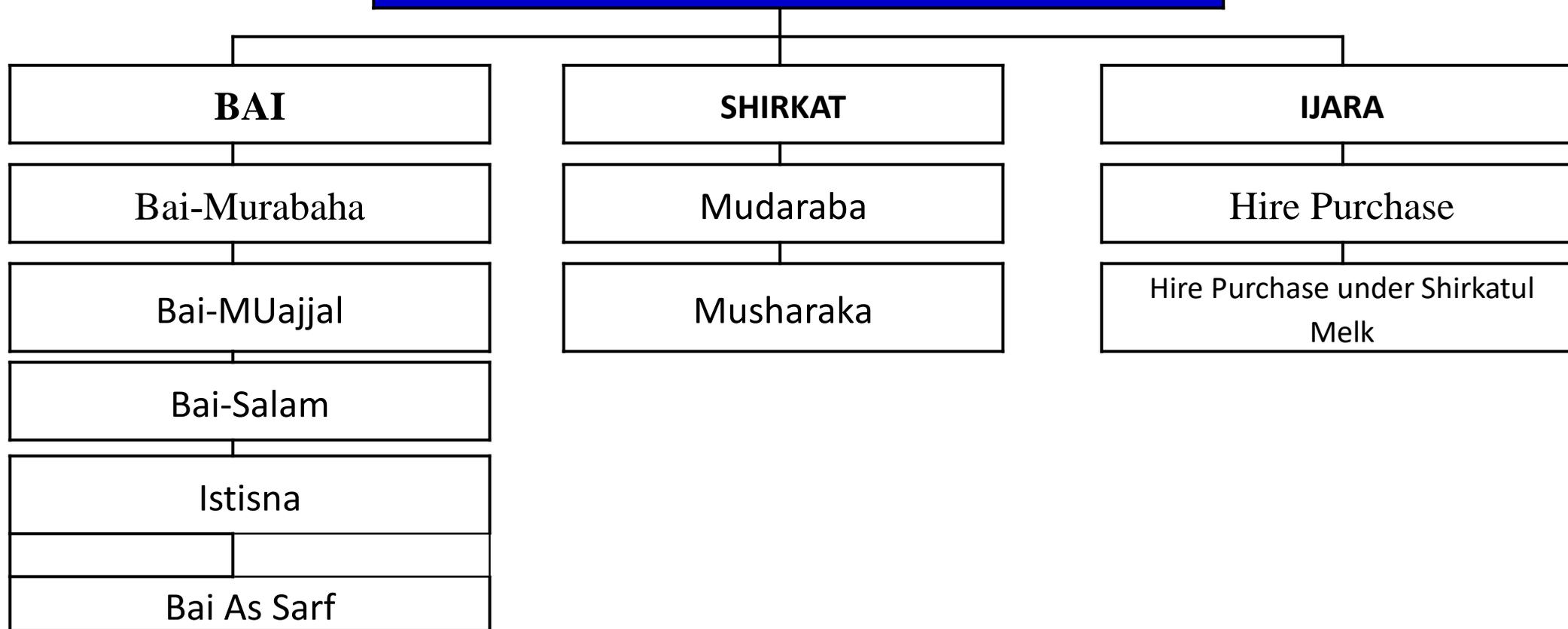
- Funds given to someone for **safekeeping**
- Demand** deposit
- The bank assumes the responsibility of immediate repayment of such funds **on demand, and without any type of prior notification.**
- Bank takes permission from customers for **utilizing** their money
- Called **Quard** account in some jurisdictions.

Mudaraba

- Bank receives from investors on the basis of **Mudarabah**
- The holders of such accounts delegate the institution to **invest** their funds.
- The **relationship** between the A/c holders and the bank is the **Mudarib** (the work provider) and **Rab al-Mal**.
- The **profit**, if any to be distributed as per agreement and **loss** to be borne by Rab al Mal

4. Modes and Mechanisms practiced by Islamic Banks (con.)

4.2 Modes/Mechanisms of Investment



5. Shari`ah non compliances in Islamic Banks (IBs)

In general, Shari`ah non compliance means failure to act in accordance with a wish or command of Shari`ah i.e Quran and Sunnah.

Meaning of
Shari`ah non Compliance
in IBs

Shari`ah non compliance or Shari`ah violation in IBs means IFI's failure to comply with the Shari`ah rules and principles determined by the relevant Shari`ah regulatory councils.

The risk arises from this is called as **Shari`ah non compliance risk (SNCR)** which is a unique risk for IFIs.

5.1 Shari`ah non compliances in GB

(Shariah non compliance in Mudaraba and Alwadiyah)

- Lack of Transparency (unclear and ambiguous term) and Keeping the depositors in dark about the terms and conditions of deposit accounts.
- Ignorance of the process of accounting and distribution of murdaraba profit by the contracting parties
- Fixed percentage of profit against deposit.
- Non adjustment of provisional profit with the final profit.
- Investing of al *wadiyah* fund without Authorization.
- Window Dressing
- Non availability of separate queue or counter for the Woman Clients (BRPD 3/2016)

5.2 Shari`ah non compliances in Investment

Major non compliance (as per BRPD 3/2016)

1. Providing **Cash Facility** to the client other than buying agency..
2. Obtaining of **Cash memo** obtained in the name of the investment client.
3. **Adjustment** of old investment liability by creating new investment A/C.
4. **Non existence** of the supplier.
5. Providing Investment on the Shari`ah **prohibited** item.
6. Charging of **rent** on the asset before it becomes usable/ rentable.
7. Being the amount of cash memo **less** than the investment.

5.3 Shari`ah non compliances in Investment

Minor non compliance (as per BRPD 3/2016)

1. Receiving the goods by the investment clients instead of the Branch from the sellers directly.
2. Keeping no record of possession of goods by the branch.
3. Non availability of Cash memo/Bill/Challan/Transport receipt.
4. Not taking of Letter of Authority in case of MPI.
5. Not taking of Letter of Authority in case of dealership.
6. Non availability of Post purchase inspection report by the Branch.
7. No making the Delivery of asset to the client in case of HPSM.
8. Charging of profit at agreement stage in case of Bai Salam.
9. Selling of Bai-Salam goods through the client without engaging him as selling agent.

10. Amount of cash memo exceeds the investment.
11. Keeping Agreement blank.
12. Obtaining Post dated cash memo.
13. Being the Investment Client himself applicant of TT/DD/PO.
14. Engagement of buying agent in Bank's unapproved item.
15. Making Investment to the client without engagement of buying agent.
16. Engagement of buying agent in case of local and single supplier.
17. Not taking the Cash memo from actual seller or supplier.
18. Obtaining Back dated cash memo.

5.4 Shari`ah non compliances in F. Ex

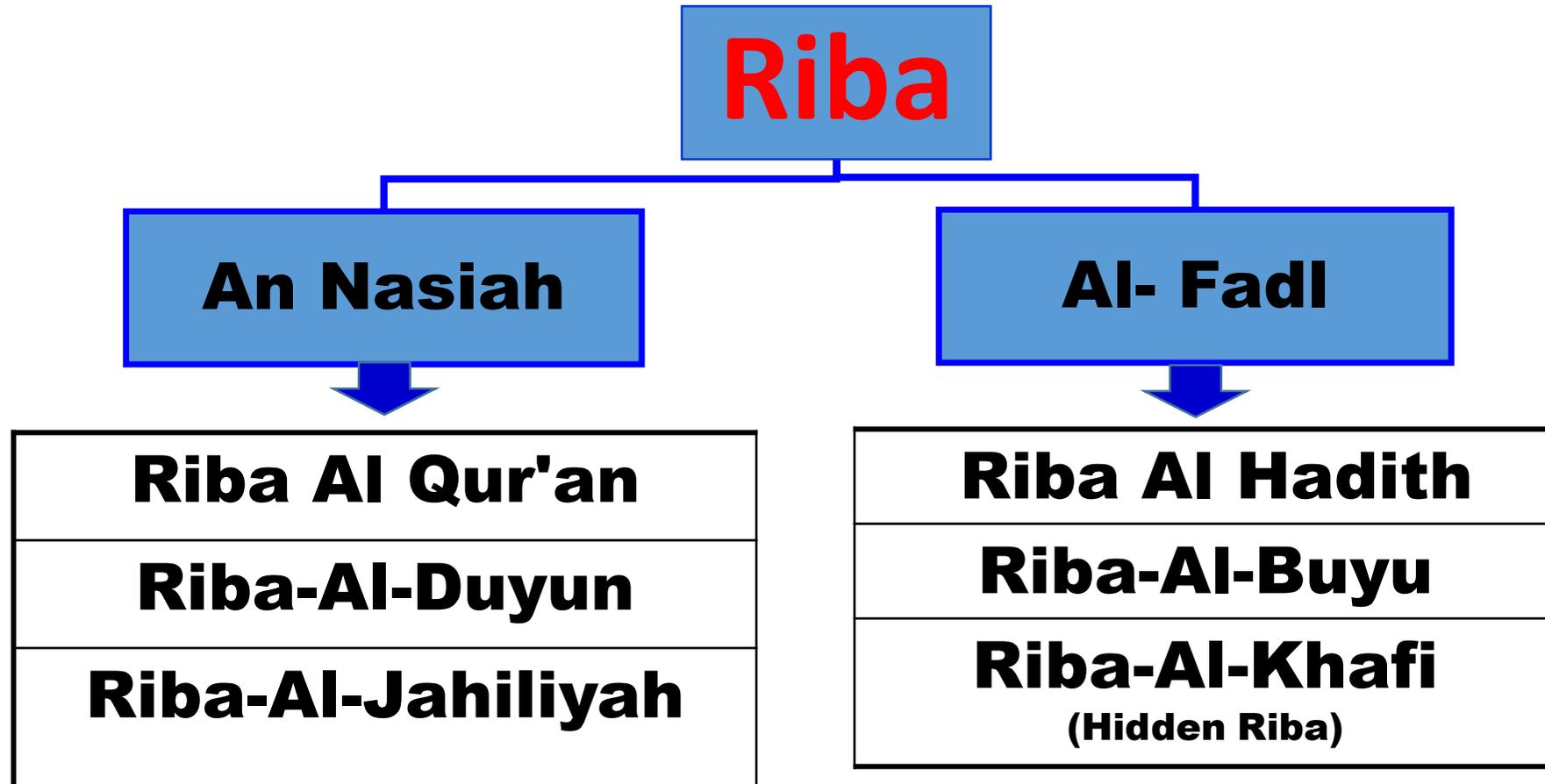
- Unavailability of **Letter of Authority** in case of MPI
- **Charging of profit** at agreement stage in case of **Bai Salam**
- Selling of Bai Salam goods through the client without engaging him as **selling agent**.
- Non existence of **physical inspection** of goods in case of Bai Salam (Export).
- Creation of **double deal** in case of import financing (MIB, MPI).
- Bill Discounting
- Not to allow **under invoicing** and over Invoicing.

6. Riba

- ❑ Riba is an Arabic word. It is derived from the word “**raba-wa**”. literally means **increment, addition, grow up, exceed** etc.
- ❑ Riba can be roughly translated as "usury", or **unjust, exploitative gains** made in trade or business under Islamic law.
- ❑ "Every loan that draws interest is Riba." (Hadith)



6.1 Classification of Riba



6.1.1 Riba An Nasiah

As **defined** by Justice Taqi Usmani

Any **stipulated** **additional** amount over the principal in a transaction of **loan** or debt’.

(Ref.: The Text of the Historic Judgment on Interest, the Supreme Court of Pakistan, Section: 73)

Characteristics of Riba an Nasiah

1. **Additional /Extra Amount**
2. **Stipulated in contract**
3. **Loan Transaction**

Example: Supposed, Mr. `A` lent tk.10,000 to Mr. `B` to be paid back tk.11,000 on a specified date. When the date agreed upon is **due**, Mr. `A` gave Mr. `B` the choice either to repay the debt or defer repayment in return for charging additional interest on the principal. e.g. total tk. 11500. This category was commonly practiced in the pre-Islamic era.

6.1.2 Riba Al Fadl

Definition

Exchange or **sale** transactions in which **extra** amount charged through the exchange of the **same commodity**.

Characteristics of Riba al Fadl

1. Additional/Extra amount
2. Same kind
3. Trade transaction

Example

To exchange two kg date of **inferior quality** for one kg of **superior quality**.

6.2 Riba Al Fadl/Buyu according to the Hadith

Type		CURRENCY				STAPLE FOOD			
		Gold	Silver	USD	TK	Wheat	Barley	Dates	Salt
CURRENCY	Gold								
	Silver								
	USD								
	TK								
STAPLE FOOD	Wheat								
	Barley								
	Dates								
	Salt								

	On the spot and same amount, quantity or weight (at par)
	On the spot basis only
	Free from the above conditions

6.3 Riba in the Holy Qur'an

6.3.1 First Revelation : Before Five Years of Hizrah

وَمَا آتَيْتُمْ مِّن رَّبًّا لِّيَرْبُوَ فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُو عِنْدَ اللَّهِ وَمَا آتَيْتُمْ مِّن زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُولَٰئِكَ هُمُ الْمُضْعِفُونَ

And whatever you give for interest to increase within the wealth of people will not increase with Allah. But what you give in zakah, desiring the countenance of Allah - those are the multipliers. (Ar Rum:39)

6.3.2 Second Revelation : At the beginning of Madina era

فَبِظُلْمٍ مِّنَ الَّذِينَ هَادُوا حَرَّمْنَا عَلَيْهِمْ طَيِّبَاتٍ أُحِلَّت لَّهُمْ وَبِصَدِّهِمْ عَن سَبِيلِ اللَّهِ كَثِيرًا - وَأَخَذِهِمُ الرِّبَا وَقَدْ نُهُوا عَنْهُ وَأَكْلِهِمْ أَمْوَالَ النَّاسِ بِالْبَاطِلِ وَأَعْتَدْنَا لِلْكَافِرِينَ مِنْهُمْ عَذَابًا أَلِيمًا (النساء-161-160)

For wrongdoing on the part of the Jews, We made unlawful for them [certain] good foods which had been lawful to them, and for their averting from the way of Allah many [people], And [for] their taking of usury while they had been forbidden from it, and their consuming of the people's wealth unjustly. And we have prepared for the disbelievers among them a painful punishment. (An nisa:160-162)

6.3 Riba in the Holy Qur'an (contd.)

6.3.3 Third Revelation : On 3rd Years of Hizrah (after war of Uhud)

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافاً مُضَاعَفَةً وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ

O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful. (Ale Imran: 130)

6.3.4 Forth Revelation : After revelation of Ayat 130 of Ale Imran

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. (Al-Baqara-275)

6.3 Riba in the Holy Qur'an (contd.)

6.3.5 Fifth Revelation : 9th year of Hizrah before Latest Haz of Prophet (PBUH)

• يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ

• فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِّنَ اللَّهِ وَرَسُولِهِ وَإِن تُبْتُمْ فَلَكُمْ رُؤُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

- O believers! Fear Allah, and give up outstanding interest if you are 'true' believers.
- If you do not, then beware of a war with Allah and His Messenger! But if you repent, you may retain your principal—neither inflicting nor suffering harm

Sura Baqarah: 278-279

6.4 Riba in the Hadith

6.4.1 Hadith From Ibn Mas`uud (R.)

أَنَّ النَّبِيَّ ﷺ لَعَنَ آكِلَ الرِّبَا وَمُؤَكِّلَهُ وَشَاهِدَيْهِ وَكَاتِبَهُ

The Messenger of Allah cursed the receiver and the payer of interest, the one who records it and the two witnesses to the transaction and said: "They are all alike [in guilt]."

(Muslim)

6.4.2 Hadith From Abu Hurayrah (R.)

أَرْبَعٌ حَقٌّ عَلَى اللَّهِ أَنْ لَا يُدْخِلَهُمُ الْجَنَّةَ ، وَلَا يُذِيقَهُمْ نَعِيمَهَا : مُدْمِنٌ خَمْرٍ ، وَآكِلٌ الرِّبَا ، وَآكِلٌ مَالِ الْيَتِيمِ بِغَيْرِ حَقٍّ ، وَالْعَاقُّ لَوَالِدَيْهِ

The Prophet, PBUH, said: "Allah would be justified in not allowing four persons to enter paradise or to taste its blessings: he who drinks habitually, he who takes riba, he who usurps an orphan's property without right, and he who is undutiful to his parents."

(Mustadrak al-Hakim, Kitab al-Buyu')

6.4 Riba in the Hadith

6.4.3 Hadith From Abu Hurayrah (R.)

لَيَأْتِيَنَّ عَلَى النَّاسِ زَمَانٌ لَا يَبْقَى أَحَدٌ إِلَّا أَكَلَ الرَّبَا، فَإِنْ لَمْ يَأْكُلْهُ أَصَابَهُ مِنْ غُبَارِهِ

The Prophet, PBUH , said: "There will certainly come a time for mankind when everyone will take riba and if he does not do so, its dust will reach him."

(Abu Dawud, Kitab al-Buyu')

6.4.4 Hadith From Anas ibn Malik

إِذَا أَقْرَضَ أَحَدُكُمْ قَرْضًا فَأَهْدَى لَهُ أَوْ حَمَلَهُ عَلَى الدَّابَّةِ فَلَا يَرْكَبُهَا وَلَا يَقْبَلُهُ ، إِلَّا أَنْ يَكُونَ جَرَى بَيْنَهُ وَبَيْنَهُ قَبْلَ ذَلِكَ

The Prophet, , said: "When one of you grants a loan and the borrower offers him a dish, he should not accept it; and if the borrower offers a ride on an animal, he should not ride, unless the two of them have been previously accustomed to exchanging such favours mutually."

(Sunan al-Bayhaqi, Kitab al-Buyu')

6.4 Riba in the Hadith

6.4.5 Hadith From Abu Hurayrah (R.)

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ " اجْتَنِبُوا السَّبْعَ الْمُؤْبَقَاتِ " . قِيلَ يَا رَسُولَ اللَّهِ وَمَا هُنَّ قَالَ " الشِّرْكُ بِاللَّهِ وَالسِّحْرُ وَقَتْلُ النَّفْسِ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَأَكْلُ مَالِ الْيَتِيمِ وَأَكْلُ الرِّبَا وَالتَّوَلَّى يَوْمَ الزَّحْفِ وَقَدْفُ الْمُخَصَّنَاتِ الْغَافِلَاتِ الْمُؤْمِنَاتِ "

the Messenger of Allah (ﷺ) observed:

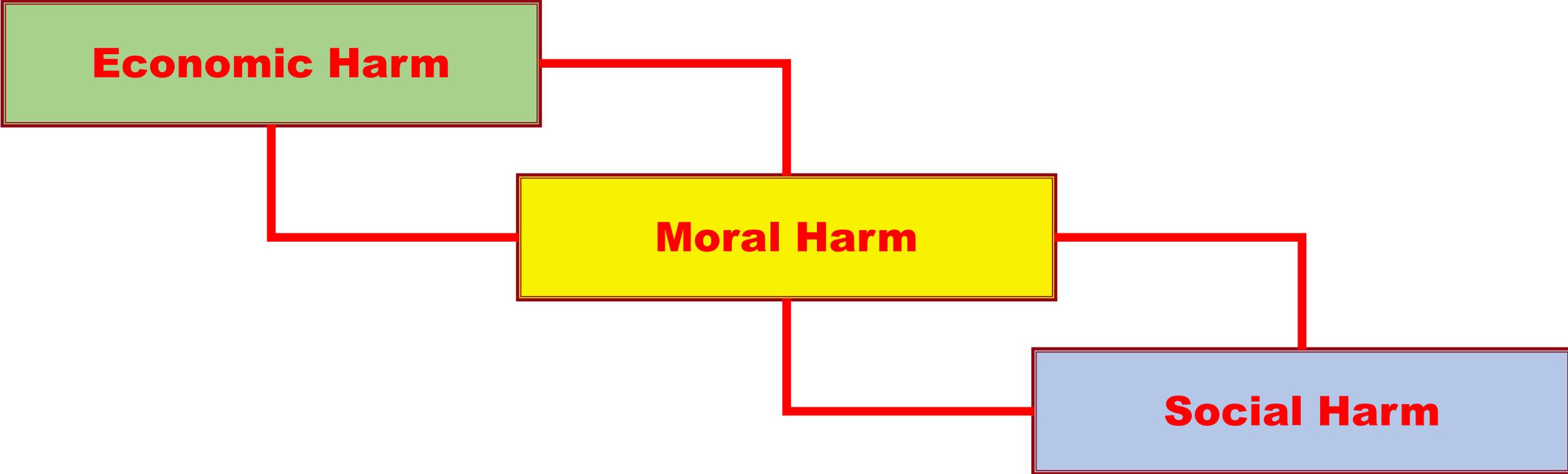
Avoid the **seven** noxious things. It was said (by the hearers): What are they, Messenger of Allah? He (the Holy Prophet) replied: Associating anything with Allah, magic, killing of one whom God has declared inviolate without a just cause, consuming the property of an orphan, and consuming of **usury**, turning back when the army advances, and slandering chaste women who are believers, but unwary.

(Sahih Muslim, Kitab al-Iman')

6.5 Riba Vs Ribh/Profit at a glance

Riba	Profit
1. Comes from loan	1. Comes from Trading
2. Charged and increased in course of time .	2. Charged only once , and does not increase with time.
3. Prohibited by Islam and major religions	3. Allowed by Islam and Major religions
4. Certain and prefixed	4. Uncertain & undetermined.
5. Does not bear the risk of business	5. Bears risk

6.7 Negative Impacts of Riba



6.7.1 Economic Harm of Riba

- ▶ Interest makes a person **reluctant to labor** and people lose their motivation to earn money through labor.

As a result, people **lose their interest** in agriculture, industry, trading and construction, etc. which influence and hamper the total welfare of a society.

- ▶ Interest moves money **from the poor** to the rich.
- ▶ Interest favours projects which yield **high profits** in the **short term**
- ▶ It reduces the **risky investment**
- ▶ Increase funding to **non productive** Sector

6.7.2 & 3 Moral & Social Harms of Riba

If the interest system exists in the society,

- ❖ the **interest-free loan giving and taking is being collapsed**. Nobody wants to lend money to anybody without interest.
- ❖ If the question of lending money comes, the question of the possible interest comes even before than that. As a consequence, the **kindness, affection, love, fellow-feeling, amity**, sense of brotherhood and the mentality of helping others gradually disappear from the society.
- ❖ Rich become richer and the poor become poorer.
(Only 1 % People holding 50 % of total wealth!
Oxfam/2017)
- ❖ The **class distinction** therefore grows and takes the shape of class conflict in course of time.



7. Other Prohibitions

7.1 Prohibition of gharar

Literally meaning : Deceit, fraud, uncertainty, danger, peril, or hazard that might lead to destruction or loss.

Technically meaning : Uncertainty caused by lack of clarity regarding subject matter or price in a contract of exchange.

A sale of a thing which is not present at hand or whose consequences is not known.

Classic examples of *gharar* sale

- Sale of fish still in the sea
- Sale of birds in the air
- Sale of unborn animals

7.1.1 Types of *gharar*



1. *Gharar yasir* (minor or slight)

- ⌘ Can be tolerated and will not invalidate a contract
- ⌘ If exist, contract still valid

2. *Gharar fahish* (major or excessive)

- ⌘ Not tolerated and may result in contract voidability
- ⌘ If exist, contract is nullified.

7.2 Prohibition of maysir/qimar

Definition

Easily obtaining something without effort; acquisition of wealth by chance.

Applies to all activities where a person wins or losses by mere chance; a form of gambling.

Many direct references in the Holy **Quran prohibiting gambling**, e. g.:

- ❖ “They ask you about wine and gambling. Say, "In them is great sin and [yet, some] benefit for people. But their sin is greater than their benefit..." (Al Baqarah:219)
- ❖ “O you who believe! Intoxicants (all kinds of alcoholic drinks), gambling, Al-Ansab , and Al-Azlam (arrows for seeking luck or decision) are an abomination of Shaitan's (Satan) handiwork. So avoid that in order that you may be successful”. (Mayida:90)

7.2 Prohibition of maysir/qimar (Contd.)

Injustice elements in gambling

Winner:

- ❖ Does not lawfully earn what he has won.
- ❖ Consume/enjoy other's property unlawfully/unjustly

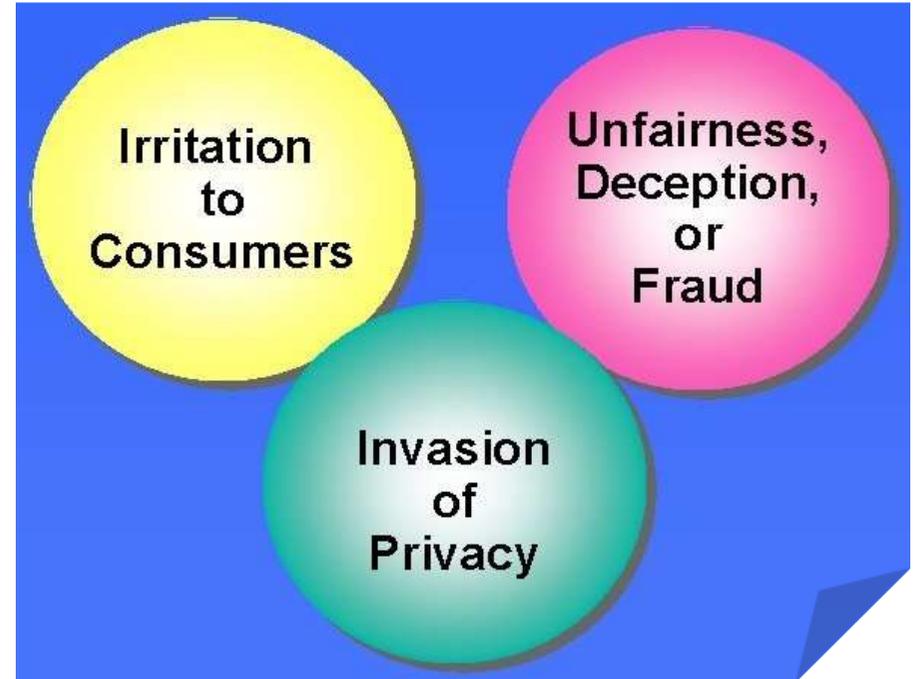
Looser losses his money without a fair compensation

Result in **hostility, hatred, enmity.**

- ❖ **In Islam, contracts involve elements of chance (*maysir*) are prohibited**
- ❖ Islam encourages one to earn living through honest effort and prohibit injustices.

7.3 Some other prohibitions

- ❑ *Gaban (unfairness)*
- ❑ *Deception*
- ❑ *Jahalah (ignorance)*
- ❑ *Julm*
- ❑ *Hoarding*
- ❑ *Kitman al Ayb (concealment of defect)*
- ❑ *Najash (bidding up price without intention to take delivery)*



ALLAH HAFEEZ

THE END