

# Earthly Punishment for the Violation of the Prohibition of Interest in Islam

CEM EYERCI\*

## **Abstract**

*Interest has been in human beings' daily economic life since ancient times. Receiving interest was mostly considered evil and the source of many social and economic problems. Therefore, interest was either entirely prohibited or allowed at rates under defined limits in many societies. The interest-based transactions were attempted to regulate by using financial, moral, religious, and legal instruments. Besides others, the spiritual means were considerably harsh. Receiving interest was considered a sin in most of the prevalent religions. Among these, the afterlife sanctions defined for the offenders against the prohibition of interest are the most severe in Islam. This article aims to evaluate the legal sanctions for not respecting the prohibition of interest-based transactions. Since Islam takes an explicit stance against interest, the earthly punishment practices in Muslim societies for violating the prohibition of interest were studied. It is observed that the implemented weak earthly sanctions are inconsistent with the severe afterlife punishments in Islam.*

## **Keywords**

afterlife punishment, earthly punishment, Islam, prohibition of interest, violation of regulations.

## **Introduction**

The records about lending are as old as the beginning of written history, and it had been a human practice presumably well before the first writings. Although people lent to some groups such as neighbours and relatives without any expectation of income, lending was mostly made at interest.

Along with its practice, there had always been a dispute regarding the legitimacy of interest. Interest-based transactions have been

---

\* Advisor, Central Bank of the Republic of Türkiye, Ankara, Türkiye.

regulated throughout history.<sup>1</sup> Interest was blamed for being revenue without working, exploiting the needy, enhancing inequality, preventing economic stability, decreasing the inclination to entrepreneurship, weakening the spirituality of people, etc.

Since ancient times, societies have regulated the practice of interest by defining rules for lending regarding its registration, allowed indemnities, licit interest rates, and enforcement of repayment.<sup>2</sup> Although the practice of interest has been allowed mostly by defining upper limits of rates, various societies entirely prohibited it. Interest-bearing loans were not allowed in some periods of ancient Greece<sup>3</sup> and ancient Rome.<sup>4</sup> In the beginning, interest was considered the same as usury and prohibited in Christianity, and it is still illicit among Jews and Muslims.<sup>5</sup>

The instruments that enforce the regulations on the practice of interest may be classified into four groups: financial, moral, religious, and legal means.<sup>6</sup> Financial instruments have always been utilized in the regulation of interest-based transactions. For example, the wealthy temples in ancient Babylonia lent to the needy at rates well below the market and sometimes free of interest,<sup>7</sup> presumably lowering market interest rates. Today, reserve requirement ratios are used by central

---

<sup>1</sup> Thomas A. Durkin, "An Economic Perspective on Interest Rate Limitations," *Georgia State University Law Review* 9, no. 4 (1993), 821-38; Wayne A. M. Visser and Alastair McIntosh, "A Short Review of the Historical Critique of Usury," *Accounting, Business & Financial History* 8, no. 2 (1998): 175-89, <https://doi.org/10.1080/095852098330503>; Vincent D. Rougeau, "Rediscovering Usury: An Argument for Legal Controls on Credit Card Interest Rates," *University of Colorado Law Review* 67, no. 1 (1996): 1-46; Hesham M. Sharawy, "Understanding the Islamic Prohibition of Interest: A Guide to Aid Economic Cooperation between the Islamic and Western Worlds," *Georgia Journal of International and Comparative Law* 29, no. 1 (2000): 153-79; Yusuf Talal DeLorenzo, "Introduction to Understanding Riba," in *Interest in Islamic Economics: Understanding Riba*, ed. Abdulkadir Thomas (New York: Routledge, 2006), 1-9; Muhammad Farooq, "Interest, Usury and Its Impact on the Economy," *Dialogue* 7, no. 3 (2012): 265-76.

<sup>2</sup> Sidney Homer and Richard Eugene Sylla, *A History of Interest Rates* (New Jersey: John Wiley & Sons, 2005), 27, 34, 45.

<sup>3</sup> Cheryl A. Olechnowicz, "History of Usury: The Transition of Usury through Ancient Greece, the Rise of Christianity and Islam, and the Expansion of Long-Distance Trade and Capitalism," *Gettysburg Economic Review* 5 (2011): 97-109.

<sup>4</sup> Homer and Sylla, *History of Interest Rates*, 45.

<sup>5</sup> Visser and McIntosh, "Short Review of the Historical Critique of Usury," 177-79.

<sup>6</sup> Cem Eyerci, *The Causes and Consequences of Interest Theory: Analyzing Interest through Conventional and Islamic Economics* (n.p.: Palgrave Macmillan, 2021), 60.

<sup>7</sup> Homer and Sylla, *History of Interest Rates*, 27.

banks in the regulation of the cost of lenders. Controlling credit costs helps to regulate the market interest rates.<sup>8</sup>

The moral codes were efficient in consideration of interest in various societies. Receiving interest was not honourable in Iran in the fifth century BCE.<sup>9</sup> Similarly, it was hated for not being natural and reputable in ancient Greece.<sup>10</sup>

In prevalent religions, such as Hinduism, Buddhism, Judaism, Christianity, and Islam, receiving interest is considered a sin and either restricted or prohibited. The Hindu law prohibited interest-bearing loans for the upper classes, and the Laws of Manu defined upper limits for allowed interest rates. Although Judaism permits receiving interest from non-Jews, interest-bearing loans are prohibited among Jews.<sup>11</sup> Before the emergence of Protestantism and the tolerance of the Catholic Church to interest-based transactions at rates not over a defined limit,<sup>12</sup> interest was not allowed in Christianity. The Church considered interest-based loan robbery and decreed in the eleventh century CE that receiving interest was a sin. Then, forward sales above the cash price were declared usurious, and the usurers were excommunicated for being sinners. Although there was no uniform enforcement throughout the centuries, the belief that usury is a sin restrained the leaders, merchants, and bankers.<sup>13</sup> The consideration of interest in Islam has been much more stable. According to the mainstream Islamic conception, interest is the same as *ribā*, which is prohibited as a grave sin. The scope of grave sin is controversial in Islamic thought. However, *ribā* is among the most frequently listed grave sins such as blasphemy, murder, slandering, and foreswearing.<sup>14</sup>

Besides the indirect interventions through financial tools, social norms, and religious beliefs, the practice of interest has been regulated mostly by administrative arrangements that bear legal consequences.

---

<sup>8</sup> Carlos Montoro and Ramon Moreno, "The Use of Reserve Requirements as a Policy Instrument in Latin America," *BIS Quarterly Review* (March 2011): 53–65.

<sup>9</sup> Homer and Sylla, *History of Interest Rates*, 21.

<sup>10</sup> Olechnowicz, "History of Usury," 97.

<sup>11</sup> Visser and McIntosh, "Short Review of the Historical Critique of Usury," 177; Servet Bayindir and Murat Ustaoglu, "The Issue of Interest (Riba) in the Abrahamic Religions," *International Journal of Ethics and Systems* 34, no. 3 (2018): 282–303, <https://doi.org/10.1108/IJOES-09-2017-0148>.

<sup>12</sup> John F. Chown, *A History of Money: From AD 800* (London: Routledge, 1996).

<sup>13</sup> Homer and Sylla, *History of Interest Rates*, 68; David Graeber, *Debt: The First 5000 Years* (New York: Melville House Publishing, 2011).

<sup>14</sup> Adil Bebek, "Kebire," in *İslam Ansiklopedisi* (Ankara: Türkiye Diyanet Vakfı, 2022), 163.

Many laws have been introduced to control interest-bearing transactions. The Code of Hammurabi in ancient Babylonia and the Twelve Tables of ancient Rome defined maximum interest rates that could not be exceeded.<sup>15</sup> The interest-bearing loans were prohibited within the Lex Genucia reforms in 340 BCE in Rome, but they did not remain in force for a long time.<sup>16</sup> The law did not allow the accumulated interest of a loan to exceed the principal in Byzantium, namely the Eastern Roman Empire.<sup>17</sup> The Church's decree of the ban on interest was established as a state law during the reign of Charlemagne in the eighth century CE.<sup>18</sup> There are still laws regulating interest rates by defining ceilings in many countries.<sup>19</sup> Such laws are in force even in developed countries such as most states of the United States,<sup>20</sup> members of the European Union,<sup>21</sup> and Japan.<sup>22</sup> Interest-based transactions are entirely prohibited by law in some Muslim-populated countries.

However, despite the existence of many works on the regulations of interest-based transactions in many past and present societies, as Helmholz<sup>23</sup> asserted for the case in medieval England, the details of enforcement in practice did not engage the attention of scholars much in general. The second section of this article summarizes such legal sanctions for not respecting the regulations on interest-based transactions in various societies and countries by examples. Considering that Islam takes the most explicit stance against interest, the third and fourth sections scrutinize the earthly consequences of violating the prohibition of interest in Muslim societies. The third section searches for

---

<sup>15</sup> Homer and Sylla, *History of Interest Rates*, 29, 45.

<sup>16</sup> Visser and McIntosh, "Short Review of the Historical Critique of Usury," 176.

<sup>17</sup> Homer and Sylla, *History of Interest Rates*, 55.

<sup>18</sup> Charles R. Geisst, *Beggar Thy Neighbor: A History of Usury and Debt* (Philadelphia: University of Pennsylvania Press, 2013), 22.

<sup>19</sup> Giuseppe Coco and David De Meza, "In Defense of Usury Laws," *Journal of Money, Credit and Banking* 41, no. 8 (2009): 1691–1703, <https://www.jstor.org/stable/20685081>.

<sup>20</sup> Martin Lewison, "Conflicts of Interest? The Ethics of Usury," *Journal of Business Ethics* 22, no. 4 (1999): 327–39, <https://doi.org/10.1023/A:1006164904326>.

<sup>21</sup> Udo Reifner, Sebastien Clerc-Renaud, and R. A. Michael Knobloch, "Study on Interest Rate Restrictions in the EU" (Hamburg: Institut für Finanzdienstleistungen, 2010), 28, [https://www.cnb.cz/export/sites/cnb/en/supervision-financial-market/.galleries/legislation/cnb\\_opinions/download/urokove\\_sazby\\_studie.pdf](https://www.cnb.cz/export/sites/cnb/en/supervision-financial-market/.galleries/legislation/cnb_opinions/download/urokove_sazby_studie.pdf).

<sup>22</sup> Edward L. Glaeser and Jose A. Scheinkman, "Neither a Borrower nor a Lender Be: An Economic Analysis of Interest Restrictions and Usury Laws" (Cambridge: National Bureau of Economic Research, 1994), <https://doi.org/10.1086/467383>.

<sup>23</sup> Richard H. Helmholz "Usury and the Medieval English Church Courts," *Speculum* 61, no. 2 (1986): 364–80, <https://doi.org/10.2307/2854044>.

Islamic practices in violation of the ban on interest-based transactions and the fourth section evaluates and discusses the approaches of scholars to the level and way of earthly punishment for such a grave sin. Finally, the work is concluded in the fifth section.

### **Examples of Earthly Punishment for not Respecting the Regulations on Interest-based Transactions**

Violating the prohibition of interest or restriction on its rate has been punished in many ways in both ancient societies and modern countries. Besides the financial instruments, social norms, and religious beliefs, there have been earthly sanctions imposed by laws and administrative decisions. The violators of regulations regarding interest-based transactions have been punished variously in many societies, such as the pecuniary penalty, whipping, imprisonment, exile, and excommunication.

In ancient Babylonia, the Code of Hammurabi defined an upper limit for the allowed interest rate circa 1800 BCE. According to the law, the lenders that requested interest over the legal limit forfeited the capital they lent.<sup>24</sup> An upper limit was defined for the rate of the allowed interest also in ancient Athens. However, differently in Ancient Babylonia, the condemnation of the offenders against the regulation was considered too harsh that an additional earthly punishment was not needed.<sup>25</sup>

On the other hand, there were periods in ancient Rome in which either interest was allowed without any limit or interest-based transactions were entirely prohibited.<sup>26</sup> However, a legal upper limit was determined afterwards. The Twelve Tables stated in 443 BCE that the lenders who received more interest than the allowed maximum had to pay a penalty fourfold of the excess.<sup>27</sup>

In Judaism, lending to another Jew at interest was punished by exiling or excommunication. The borrowers were also punished similarly.<sup>28</sup>

---

<sup>24</sup> Homer and Sylla, *History of Interest Rates*, 27.

<sup>25</sup> B. S. Horack, "A Survey of the General Usury Laws," *Law and Contemporary Problems* 8, no. 1 (1941): 36–53.

<sup>26</sup> Brian M. McCall, "Unprofitable Lending: Modern Credit Regulation and the Lost Theory of Usury," *Cardozo Law Review* 30 (2008): 549–613.

<sup>27</sup> Homer and Sylla, *History of Interest Rates*, 45.

<sup>28</sup> Geisst, *Beggar Thy Neighbor*, 15.

In medieval Europe, usury was defined as lending at interest at any rate at the beginning. Although it was always considered a sin by the Catholic Church, the reason for this attitude evolved over time. Initially, usury was declared to be evil for being against charity. Then, it was regarded as a problem for commutative justice. Finally, it was considered a deadly sin against God for being a theft of time that belongs to God.<sup>29</sup> In the fourth century CE, the Church decreed that the clergy could not give interest-based loans.<sup>30</sup> The clerics that violated the rule were punished by being suspended from the community, rejected from the class of clergy, dismissed, or degraded.<sup>31</sup>

Then, in 850 CE, the Synod of Pavia decreed to excommunicate the usurers. Besides, it was instructed that the received interest by the usurers should be restituted back to the borrowers.<sup>32</sup> In the twelfth century CE, Pope Alexander stated that forward selling at higher than the cash price was the same as practising usury. Usury was considered uncharitable and avarice. Therefore, the usurers had to be excommunicated for being sinners against justice.<sup>33</sup> The Church endorsed the previous sanctions and forbade the priests to bury away the unrepentant usurers by the Third Lateran Council in 1179 CE.<sup>34</sup> In 1212 CE, it was decreed by a council of Paris that, after a usurer's death, his possessions shall be confiscated and handed out to the needy.<sup>35</sup> On the other hand, the Jews were not affected by excommunication. However, the Fourth Lateran Council wanted the Christians to commercially boycott the Jews in 1215 CE.<sup>36</sup> In 1234 CE, Pope Gregory IX (r. 1227-1241 CE) decreed that the priests that permit the burial of usurers shall be regarded as usurers and punished accordingly.<sup>37</sup>

An instance of the sanctions implemented against usurers may be the practice in China. According to the Law Code enforced by the Ts'ing

---

<sup>29</sup> John Munro, "Rentes and the European 'Financial Revolution,'" in *Handbook of Key Global Financial Markets, Institutions, and Infrastructure*, ed. Gerard Caprio (Boston: Elsevier, 2013), 1:235-49.

<sup>30</sup> Visser and McIntosh, "Short Review of the Historical Critique of Usury," 178.

<sup>31</sup> Thomas P. McLaughlin, "The Teaching of the Canonists on Usury, Part II," *Mediaeval Studies* 2 (1940): 1-22.

<sup>32</sup> John Thomas Noonan, *The Scholastic Analysis of Usury* (Cambridge: Harvard University Press, 1957).

<sup>33</sup> Homer and Sylla, *History of Interest Rates*, 68.

<sup>34</sup> Munro, "Rentes and the European 'Financial Revolution,'" 238.

<sup>35</sup> McLaughlin, "The Teaching of the Canonists on Usury, Part II" 5.

<sup>36</sup> Noonan, *Scholastic Analysis of Usury*, 35.

<sup>37</sup> Munro, "Rentes and the European 'Financial Revolution,'" 238.

Dynasty, which ruled China from the seventeenth to the twentieth century, the officials were not allowed to lend at interest. The code stated that, in such a case, the lender should be punished by whipping eighty times using a stick.<sup>38</sup>

Today, in almost all states of the United States, the allowed rates for interest-based transactions are defined by usury laws. The offenders against the law are punished variously. According to the law in effect in the state, the illicit lenders may forfeit any of (a) the excess interest over the allowed rate, (b) all the interest, and (c) the entire lent capital and its interest. Besides, some states impose various criminal sanctions such as fines and imprisonment.<sup>39</sup> In Canada, either contracting to receive or receiving interest more than the upper limit of 60 per cent per annum is not allowed and is punished by imprisonment for up to five years.<sup>40</sup>

Similarly, there are interest rate ceilings in effect in almost all European Union countries at present. The lenders that violate the rules regarding the allowed interest rates are punished variously. There are civil (reduction in the loan and invalidity of the relevant contract), administrative (loss of the license for lending), and criminal (imprisoning and fining) sanctions defined by either criminal law, civil law, or private laws for specific types of loans.<sup>41</sup>

Considering the regulations imposed in all societies, which prohibit usury or interest-based transactions entirely and define various punishments for the offenders against the rules, it is conceivable to observe numerous cases in which the lenders are convicted of receiving illicit interest. However, the number of incidents is far less than expected. The perception regarding the limited number of observations of punished offenders may be a fallacy due to the lack of information in the literature. However, the practice of interest has been widespread.<sup>42</sup> The lenders have utilized various loopholes and legal fictions to avoid the relevant sanctions almost in all societies. Most of the reasons

---

<sup>38</sup> Chen Huan-Chang, *The Economic Principles of Confucius and His School* (New York: Columbia University, 1911), 550.

<sup>39</sup> Horack, "Survey of the General Usury Laws," 43.

<sup>40</sup> Michael H. Lubetsky, "Losing Interest: Financial Alchemy in Islamic, Talmudic, & Western Law," *Transnational Law & Contemporary Problems* 19, no. 1 (2010): 231–60.

<sup>41</sup> Reifner, Clerc-Renaud, and Knobloch, "Study on Interest Rate Restrictions in the EU," 79.

<sup>42</sup> Ryan Calder, "God's Technicians: Religious Jurists and the Usury Ban in Judaism, Christianity, and Islam," *European Journal of Sociology* 57, no. 2 (2016): 207–57, <https://doi.org/10.1017/S0003975616000096>.

asserted by Peterson<sup>43</sup> for the ineffectiveness of the regulations on salary loans, namely payday loans, have been valid to an extent for almost all relevant legislations of the past and present societies.

### **Earthly Punishment for Making Interest-based Transactions in Muslim Societies**

There is no doubt that *ribā* was explicitly prohibited in both the Qur'ān and *sunnah* of the Prophet Muḥammad (peace be on him). Although there has been a controversy about the meaning of *ribā*<sup>44</sup> and many distinct conceptions have been asserted,<sup>45</sup> the interpretation of the evidence in the Qur'ān and *sunnah* as *ribā* to be the same as interest in conventional economics has become the approach of mainstream Islamic thought. Accordingly, receiving *ribā*, namely interest, was regarded as a sin, which means fighting against God and the Prophet and causes to go to Hell and be there perpetually.<sup>46</sup> Thus, receiving interest is one of the strongest condemned evils in Islam.

On the other hand, an action believed to be punished by severe torment afterlife may also be expected to have some earthly punishment. However, there is no earthly sanction defined in the primary sources of the Qur'ān and *sunnah* against interest-based transactions. Therefore, the jurists' decrees and the administrative and legal sanctions enforced by the authorities have been based on secondary conceptions inferred from the explicit provisions.

---

<sup>43</sup> Christopher L. Peterson, "Truth, Understanding, and High-Cost Consumer Credit: The Historical Context of the Truth in Lending Act," *Florida Law Review* 55 (2003): 807–903.

<sup>44</sup> Ziauddin Ahmad, "The Theory of *Ribā*," *Islamic Studies* 17, no. 4 (1978): 171–85; Mohammad Omar Farooq, "The Riba-Interest Equivalence: Is There an Ijma (Consensus)?" *Transnational Dispute Management* 4, no. 5 (2007): 1–28, <https://dx.doi.org/10.2139/ssrn.3036390>.

<sup>45</sup> Fazlur Rahman, "*Ribā* and Interest," *Islamic Studies* 3, no. 1 (1964): 1–43; Süleyman Uludağ, *İslamda Faiz Meselesine Yeni Bir Bakış [A New View on the Issue of Interest in Islam]* (İstanbul: Dergah Yayınları, 1988); Emad H. Khalil and Abdulkadir Thomas, "The Modern Debate over Riba in Egypt," in *Interest in Islamic Economics: Understanding Riba*, ed. Abdulkadir Thomas (New York: Routledge, 2006), 68–94; William Grassie, *The New Sciences of Religion: Exploring Spirituality from the Outside in and Bottom Up* (New York: Palgrave Macmillan, 2010); Muhammad Akram Khan, "Riba in Islamic Finance: Some Fresh Insights," *Journal of Economic and Social Thought* 7, no. 1 (2020): 25–40.

<sup>46</sup> Qur'ān 2:279, 275.



According to an approach, the task of determining the earthly sanctions against the practice of interest is left to the jurists.<sup>47</sup> Hence, Ibn ‘Abbās, Ḥasan al-Baṣrī, Ibn Sīrīn, and Rabī‘ bin Anas, the prominent scholars of the seventh and eighth centuries, suggested that the one who receives interest shall be warned for not offending the prohibition of interest. Whoever does not swear to give up shall be sentenced to death. The basic foundation of such a judgement was the characteristic of the crime. Practising interest was defined as a sin in the Qur’ān that meant fighting against God and the Prophet.<sup>48</sup> Distinctly, some other scholars thought that such criminals should be imprisoned till they give up receiving interest from loans or other transactions.<sup>49</sup>

A slightly different approach claimed that since there is no consensus among jurists on the issues relevant to interest, the rulers or the judges shall determine the type and scale of the punishment in line with the provided evidence on the committed crime.<sup>50</sup>

Despite the implicitly defined above-mentioned severe sanctions in Islamic jurisprudence, there is almost no evidence regarding the execution of any of these punishments in practice. However, the reason for not observing these sanctions is not the absence of interest-based transactions. Although it was prohibited in the Muslim world, it is evident that interest was practised in various Muslim geographies, e.g., Baṣrah in the ninth century CE, Tunisia in the eleventh and twelfth centuries CE,<sup>51</sup> Amasya in the thirteenth century CE,<sup>52</sup> Kayseri<sup>53</sup> and

---

<sup>47</sup> Mervyn K. Lewis, “Comparing Islamic and Christian Attitudes to Usury,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (n.p.: Edward Elgar, 2007), 64–81.

<sup>48</sup> Qur’ān 2:279.

<sup>49</sup> Ebul Ala Mevdudi, *Tefhimul Kuran [Understanding the Qur’ān]*, 2nd ed., 7 vols. (İstanbul: İnsan, 1996), 1:223.

<sup>50</sup> Mohamed Abdalla Selim El-Awa, “The Theory of Punishment in Islamic Law: A Comparative Study” (PhD diss., SOAS University of London, 1972), 232.

<sup>51</sup> Calder, “God’s Technicians,” 238.

<sup>52</sup> Osman Turan, “Selçuk Türkiyesi’nde Faizle Para İkazına Dair Hukukî Bir Vesika [A Juridical Document on Interest-Based Money Lending in Seljuk Turkey],” *Belleten* 16, no. 62 (1952): 251–60.

<sup>53</sup> Ronald C. Jennings, “Loans and Credit in Early 17th Century Ottoman Judicial Records-The Sharia Court of Anatolian Kayseri,” *Journal of the Economic and Social History of the Orient* 16, nos. 2–3 (1973): 168–216, <https://doi.org/10.2307/3596214>.

Bursa<sup>54</sup> in the seventeenth century, and Istanbul in the seventeenth and eighteenth centuries.<sup>55</sup>

Gazan Khan, who reigned the Ilkhanid Empire from 1295 CE to 1304 CE, banned lending at interest, even by legal fiction. He enacted that such lenders shall lose not only the interest but also the principal lent. It was claimed that the regulation caused fear among people, and consequently, the practice of interest declined. However, a 1298 CE-dated record of the court of Amasya, a middle-north Anatolian city that was under the domination of the Ilkhanids in that period, implies that there were interest-based loan transactions. The cases of disagreement could be brought to court as if interest was allowed. The inconsistency between the regulation and the practice may have various reasons, such as the continuation of previous conventions in the regions far from the centre of the empire.<sup>56</sup>

On the other hand, interest-based transactions at rates not higher than a defined limit, which changed from time to time, were allowed in the Ottoman Empire. Thus, practising interest at a higher rate was considered a crime. Such crimes were punished in various ways. However, there is not any evidence that shows the existence of a standard form of punishment.

In the sixteenth century, for example, the usurers, namely the ones that received interest at rates higher than allowed, were exiled to new lands within the frame of a populating policy. Some other usurers were mandatorily assigned as merchants to collect sheep from the rural area and transport it to the capital or as butchers to pack and sell meat. The prices of the goods traded by such merchants and butchers were fixed as a state policy of low prices, and the wealth of such merchants and butchers depreciated in time.<sup>57</sup> According to Abū 'l-Sa'ūd Afandī, the famous jurist and Shaykh al-Islām, an *imām* of a mosque, who received interest at a rate not allowed, deserved to be dismissed.<sup>58</sup> Registers state

---

<sup>54</sup> Haim Gerber, *Economy and Society in an Ottoman City: Bursa, 1600-1700* (Jerusalem: Hebrew University, 1988), 140.

<sup>55</sup> Timur Kuran and Jared Rubin, "The Financial Power of the Powerless: Socio-economic Status and Interest Rates under Partial Rule of Law," *The Economic Journal* 128, no. 609 (2017): 758–96, <https://doi.org/10.1111/eoj.12389>.

<sup>56</sup> Turan, "Selçuk Türkiyesi'nde Faizle Para İkazına Dair Hukukî Bir Vesika," 253.

<sup>57</sup> Mehmet Akif Berber, "From Interest to Usury: The Transformation of Murabaha in The Late Ottoman Empire" (master's thesis, İstanbul Şehir Üniversitesi, 2014), 50.

<sup>58</sup> Kaşif Hamdi Okur, "Para Vakıfları Bağlamında Osmanlı Hukuk Düzeni ve Ebussuud Efendinin Hukuk Anlayışı Üzerine Bazı Değerlendirmeler [Some Notes on Ottoman Law

that the heritage of some usurers was confiscated in the eighteenth century.<sup>59</sup>

The Penal Code of Iran may be an instance of the present regulations of the prohibition of interest. The Code (article 595) defines receiving interest at any rate as usury and states that it is a crime. According to the regulation, the usurers and the borrowers, who pay interest to them, shall be punished by six months to three years of imprisonment and whipping up to 74 times. Besides, the offenders against the law have to pay a fine equal to the illicitly transacted amount.<sup>60</sup>

### **Expositions of the Lack of Earthly Punishment for Interest-based Transactions**

The review of the literature regarding earthly punishment for offending the prohibition of interest evokes that the practised sanctions in Muslim societies are not in balance with the severity of the afterlife punishments. A grave sin is described as an evil that deserves an afterlife or worldly punishment, and receiving interest is considered a grave sin in Islam.<sup>61</sup> Therefore, it is explicitly prohibited in mainstream Islamic thought. However, it is not stated as a crime, and no sanction is defined against it in Islamic jurisprudence. On the other hand, despite some considerably non-rigid regulations enacted by authorities in Muslim societies on interest prohibition, there is not much evidence about the extent of their enforcement in practice. It may be thought that a probable reason for the nonexistence of much observation of relevant sanctions may be the disappearance of interest-based transactions due to the regulations. However, that was not the case. As exemplified in the previous section, interest was prevalently practised in Muslim societies.

An issue regarding the enacted regulations is highly remarkable that there was almost no sanction defined against receiving interest at allowed low rates in many Muslim societies. Instead, the usurers that received interest at a rate higher than the legal limit were the subject of enforcement as it was done by the Church afterwards. Similarly, it is also interesting that although not only receiving but paying interest and witnessing or registering such transactions were also prohibited in

---

Order and Ebussuud Efendi's Juridical Views Concerning Cash Waqfs in Ottoman Empire],” *Hitit Üniversitesi İlahiyat Fakültesi Dergisi* 4, no. 7–8 (2005): 33–58.

<sup>59</sup> Berber, “From Interest to Usury,” 52.

<sup>60</sup> A. Khorshidian, “Usury Effect on the Economy in Jurisprudence and Iranian Legal System,” *Journal of History Culture and Art Research* 6, no. 3 (2017): 1266–87.

<sup>61</sup> Bebek, “Kebire,” 163.

Islam,<sup>62</sup> almost none of the regulations stated any sanctions for the ones other than the interest receivers.

On the other hand, it may be thought that a reason for the rarity of the observation of implementation of sanctions may only be having the opportunity to punish publicly known offenders. However, the enforcement of the rules was pretty weak in the observed cases. As a result, the level of punishment of usurers was not convincing for everybody, especially for the debtors. For example, a complaint against the usurers was registered in Erzurum at the beginning of the twentieth century. It was claimed by the complainer that the intervention of the authority by only reducing the rate of a noticed usurious loan was not deterring the usurers.<sup>63</sup> The practice in the Ottoman Empire in the seventeenth and eighteenth centuries was quite similar. In cases of illegal interest-based actions, the courts were only invalidating the transactions, and the offenders did not face any other legal consequences.<sup>64</sup> Calder asserts that the absence of punishment for such interest-related crimes was common at various times and in other places.<sup>65</sup> Thus, it was also claimed in the Christian world that for not having sufficient enforcement against usurers, the prohibition of usury might have readily been flouted.<sup>66</sup>

Coming back to the reason for the lack of earthly punishments against practising interest, a distinct approach, which is based on the nature of the fault, is shown. Uludağ<sup>67</sup> states that although legal sanctions are defined against other financial crimes such as theft and extortion in Islam, it is contented with afterlife punishments for receiving interest. He thinks that the possible earthly sanctions against interest are prone to be abused, and thus, spiritual sanctions were defined for it just as it is done for slander and lying. Therefore, the prohibition of interest is about morality rather than jurisprudence.

A similar approach is shown by Khan.<sup>68</sup> He asserts that the prohibition of lending at interest by the Qur'ān is not a foundation of public law but a moral restriction. According to him, the approach of the

---

<sup>62</sup> Muhammad Umer Chapra, "The Nature of Riba in Islam," *Journal of Islamic Economics, Banking and Finance* 2, no. 1 (2006): 7–25.

<sup>63</sup> Berber, "From Interest to Usury," 52.

<sup>64</sup> Haim Gerber, *Islamic Law and Culture, 1600-1840* (London: Brill, 1999), 129.

<sup>65</sup> Calder "God's Technicians," 238.

<sup>66</sup> Noonan, *Scholastic Analysis of Usury*, 35.

<sup>67</sup> Uludağ, *İslamda Faiz Meselesine Yeni Bir Bakış*, 33.

<sup>68</sup> Muhammad Akram Khan, *What Is Wrong with Islamic Economics? Analysing the Present State and Future Agenda* (n.p.: Edward Elgar, 2013).

jurists, which considers the violation of the prohibition a crime and suggests punishing the offenders, is extreme. He claims that although the Prophet (peace be on him) could decree an earthly punishment against the offenders, he did not enact any rule. Neither the Qur'ān nor the Prophet mentioned any sanction as it was done for theft, adultery, and murder. Khan also notes that the four great caliphs and the following administrations did not establish any law defining an earthly punishment against interest. Moreover, although the Islamic jurisprudence discussed the concept of interest, decreed the frame of legitimate trade, and warned people about the evilness of interest-based transactions, it did not suggest any earthly sanction against the violation of the prohibition.

The controversy over the lack of earthly punishments for the violation of interest prohibition is not new and does not pertain to Islam only. As Noonan states, the efficacy and sufficiency of the sanctions against the violators of the ban on usury in medieval Europe were highly controversial. He mentions the ones, who claim the inadequacy of the earthly sanctions, to hold a materialistic view and asserts that the prohibition of usury is essentially an issue of morality. He emphasizes that the Church's decree of severe punishments was only against publicly known offenders. Presumably, the number of known usurers was few and the number of hidden ones was many. However, the hidden usurers were also sinners, and the essential punishment would be imposed afterlife. According to Noonan, medieval Christians knew the nature of the guilt well, and whether they were punished by an authority in the world or not, they damned themselves for offending the ban. He claims that the real enforcer of prohibition is the soul in people, and it is not possible to avoid it.<sup>69</sup>

However, none of the mentioned approaches, which attempt to clarify the lack of in-life punishments against the prohibition of interest, is satisfactory enough to interpret the imbalance between the severe afterlife and weak earthly sanctions. There is no doubt that spiritual enforcement may have a significant role in maintaining social order. Nevertheless, not all individuals can be assumed to be devout enough. Therefore, the authorities, at least the divine ones, which consider interest one of the sources of many serious problems such as restraint for the needy, wealth gap, tendency to inflation, unjust income, and

---

<sup>69</sup> Noonan, *Scholastic Analysis of Usury*, 36.

economic volatility<sup>70</sup> may have to be expected to take stricter measures against such evil to sustain the social and economic order in the societies. Nevertheless, interestingly, that is not the case.

Calder asserts that it is not easy to punish the offenders against the ban on interest because the instruments developed to overcome the prohibition legitimate the transactions.<sup>71</sup> Although the legitimacy of some of those instruments was controversial, and the ones that were based on the difference between the spot and future prices of an item had the same consequences as interest-based transactions have,<sup>72</sup> their usage might have prevented the punishment of the moneylenders to an extent. The question is what caused the development of such methods, some of which were devious. Was it primarily the ordinary human's greedy action made for more wealth or an inevitably used remedy in unavoidable cases due to the widespread thought on the evilness of interest? Greed is, of course, more or less effective at all times. Nevertheless, is it plausible to explain the emergence of many alternative and devious ways only by the effect of greed? A proper reply to this question requires researching the issue thoroughly, and even such an examination may not provide a convincing answer.

However, the above-mentioned imbalance between the severe afterlife and weak earthly sanctions may involve some evidence of the conditions that forced people to diverge to devious instruments. The inconsistency is not only between these two facts. As Subhani<sup>73</sup> asserts, the meaning of interest is inconsistent with its practice, its practice is inconsistent with the rationale of its prohibition, the rationale is inconsistent with the underlying cause of its prohibition, and finally, these facts are inconsistent with the consequences of offending against the prohibition.

The reason for the imbalance of the severity of the afterlife punishment with the weakness of earthly ones and inconsistencies between the relevant facts claimed by Subhani may be the approach of the mainstream Islamic jurisprudence and economic thought to the concept of interest. It is so because a proper consideration of an issue might not have resulted in such consistency problems. On the contrary,

---

<sup>70</sup> Ibrahim Mohammad Lawal, "Riba (Usury); A Tool That Should Be Carved Out of Financial Transactions," *Turkish Journal of Islamic Economics* 3, no. 2 (2016): 13–24.

<sup>71</sup> Calder, "God's Technicians," 238.

<sup>72</sup> Eyerci, *Causes and Consequences of Interest Theory*, 141.

<sup>73</sup> Azeemuddin Subhani, "The Islamic Doctrine of Ribā Prohibition: A Modular Hermeneutical Examination" (master's thesis, McGill University, 2001), 83.

any strained interpretation in defining the concept of interest or the scope of the prohibition might have produced the mentioned imbalances. Therefore, a comprehensive reevaluation of all relevant issues by considering the consistency among the meaning of interest, the way of its practice, the rationale and underlying cause of its prohibition, and the consequences of the violation of its prohibition is required.

### Conclusion

Interest has been practised since ancient times. However, its legitimacy was always controversial for being considered an evil and a source of many social and economic problems such as exploiting the needy, enhancing inequality, preventing stability of the economy, decreasing the inclination to entrepreneurship, and weakening spirituality. Therefore, interest was entirely prohibited in some societies but mostly allowed at rates under defined limits. The authorities attempted to regulate interest-based transactions by using financial, moral, religious, and legal instruments.

Besides others, the religious means were considerably harsh. Receiving interest was considered a sin and either restricted or prohibited in Hinduism, Buddhism, Judaism, Christianity, and Islam. Among these, afterlife sanctions defined for the offenders against the prohibition of interest may be the most severe in Islam. According to the Qur'ān, practising interest means fighting against God and the Prophet and causes going to Hell and being there perpetually.

Meanwhile, many administrative and legal sanctions have been used in almost all societies to regulate interest-based transactions. The offenders against the restrictions on interest have been variously punished by fines, whipping, imprisonment, exile, and excommunication. However, the efficacy of these sanctions was not satisfactory enough in general. Especially in the Muslim world, the power of enforcement in life has been too low concerning the described afterlife sanctions. Thus, the number of observed punishments is very few.

A reason for the imbalance between the severe afterlife and weak in-life sanctions in Islam may be the absence of earthly punishment in the primary sources of the Qur'ān and *sunnah*. Some scholars assert that the reason for the Qur'ān's not defining earthly sanction is the consideration of the prohibition of interest to be about morality rather than jurisprudence. Even so, recalling that the practice of interest is regarded as a source of many serious social and economic problems, the

authorities may have been expected to take stricter measures against such an evil, but they did not take it.

The approach of mainstream Islamic jurisprudence and economic thought to the concept of interest may be the reason for the inconsistency between the severity of the afterlife punishment and the weakness of earthly sanctions. Any strained interpretation of the concept of interest or its prohibition might have produced the mentioned inconsistency by forcing individuals to develop alternative instruments to overcome the prohibition.

\* \* \*