

An Analysis of the monetary history between Law and Economics in Pakistan in the light of Sharia Perspective

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Abstract

This introductory chapter provides an overview of the entire text and defines its scope. The purpose of this text is to explain the development of essential doctrines in the legal history of money in the European civil law and Anglo-American common law traditions. The period spans over 800 years, from Medieval Europe (13th century) to the International Monetary Agreement established at Bretton Woods in 1944. The purpose of this book is to create a unique legal history of money. However, it acknowledges the commercial influence that has contributed to this legal history and provides many examples of the symbiotic relationship between law and economics in currency development. It takes into account the legal recognition of the state's special role in defining and valuing what functions as money.

Key Words: law, Shariah, monetary, economics, history

Introduction

Economics is an important branch of social sciences in which the distribution of scarce

material resources and production and their demand and supply are studied. The term economics in Arabic and Persian has also

been used as a synonym for economics in Urdu. A comprehensive definition of economics given by Lionel Robbins is as follows: 'Economics is the study of human behavior when faced with unlimited wants and limited resources. While these limited sources have diverse uses'. Economics today has become a modern social science which covers not only human economic behavior but also the economic behavior of society and countries as a whole and all issues related to human life and its economic development and future planning. And subjects such as human welfare are included which were not covered before. Economics has given birth to many new disciplines which have now taken their own place such as finance, commerce and management. There are many branches of economics but generally they can be divided into Microeconomics and Macroeconomics.¹

Monetary History

In ancient times, the financial system was as simple as the responsibilities of government. Generally, the responsibilities of the government were limited. Therefore, there were no complications in revenue. A major part of the revenue consisted of land tax and its revenue. While the fertile areas usually had higher revenue or some special revenue was levied on them for a specific purpose. Apart from this, *Jizya*, trade and inheritance were also taxed. More or less, in Rome, Iran, Egypt and other regions before Islam, the same taxes were imposed in different forms.²

In ancient times, needs were short and simple, but with the development of

civilization, they became more and more complex. Basically we need food to satisfy hunger, cloth to cover body and house to stay. But apart from this, man needs many things that provide comfort and entertainment. Such as sofa, radio, television, refrigerator, air-conditioners, motorcycle and car etc. So, to fulfill these needs, man works hard and earns wealth. So we see peasants active in fields, workers in factories, clerks in offices. Therefore, doctors, professors, lawyers, washermen and barbers are doing their work to get the necessary items by earning rupees. This struggle of man and his efforts are related to economics.³

In fact, human desires are innumerable but the means to fulfill them are few. So he is faced with the problem of how to fulfill his desires with these meager resources. It is as if he has to choose between numerous desires and be content with means. The study of this aspect of human behavior is called economics.⁴

In ancient times there were gold and silver coins. Which were in limited quantity in the world, so there was stability in the value of the currency and therefore the world was always suffering from differential deflation? At a time when usury was creating imbalance in society, Islam dealt a blow to usury by imposing zakat on the one hand and encouraging voluntary distribution of wealth on the other. This would not only spread the wealth in the society, but because people would have money, trade and business would progress and people would get employment. The answer is also a very direct action.⁵

But due to increasing population and rapid development, the world began to suffer from inflation and recession. Because there was a limited amount of gold in the world, which could not be increased any more, paper money was created as a substitute which was initially issued in exchange for gold, so its value was stable. But soon it became associated with gold, now its value keeps falling with time.⁶

In the world where progress has been made in various fields and various evolutionary stages have passed, today's economic world has also changed. Today's economic world is not as simple as it used to be. With the changes of time and place and custom and habit, it has set different evolutionary stages and now this era has become much more complex and faster than the previous one. Therefore, the economic world today has changed a lot compared to yesterday. Earlier usury used to create imbalance in the society, whereas in today's modern economy the borrower is at an advantage due to rapid growth and depreciation over time.⁷

Today's economic system is very different from the medieval one. Earlier, only gold had the status of currency, but now it has been replaced by paper money, the value of which depreciates with time and the process of inflation continues. This is the reason why today people all over the world invest their money in real estate or similar purchases and prefer business loans and happily pay more than the original amount at the time of return, because while taking a loan the value of the currency is depreciated at the time of payment. This is the reason why the arguments that were

given against usury do not apply to the modern economic system. Because the depreciating value of money over time has made all arguments against usury useless and usury has completely become prevalent in economic society. Today we cannot think of an economy without interest. In fact, the usurious system is not limited to banking. Rather, other economic & monetary issues such as creation of money, Capital Formation, paper money, balance of payments, loans, spreading and drawing money in the market according to economic strategies and employment etc. are also associated with it.⁸

Although economic writings date back to ancient times, the book that is considered to be the first published book on formal economics is Adam Smith's famous book 'Wealth of Nations' which was published in 1776. At that time, economics was not recognized as a separate subject, but even before 1876, there are articles related to economics in various journals, for example, Thomas Munn's articles on international trade date back to the sixteenth century. Economic theories existed in the Islamic period as well as in the Greek period, but it was developed as a separate subject only in the eighteenth century.⁹

Economics got its separate name (Economics in English, Sciences économiques in French) sometime after 1876. The first book that was regularly printed with this name was Alfred Marshall's book Principles of Economics, which was published in 1890. But we can divide economic theories into three main periods. The first period is generally

considered to include Greek, Roman and Arabic (Islamic) ideologies. The second period incorporates eighteenth-century ideas from the fourteenth century onwards, such as mercantilist views, and the third period includes the ideas of Adam Smith and later. The third period is actually the period of development of economics in the true sense, in which the foundation of modern economics was laid and economics was given the status of a separate subject. In this third period, various schools of thought were born, for example, classical, neo-classical, etc.¹⁰

The knowledge of economics as a whole is divided into two main branches.

Microeconomics

It involves economic analysis at the individual level like a person, factory, partnership, consumer or household etc. It has many branches like consumer behavior, welfare economics, trade economics, industrial organization, family economics etc.

Macro Economics

In this, society is analyzed on a collective level such as a country's income and growth rate or international analysis etc. It has many branches like economic development, international economics, population economics etc.¹¹

Cash Economics

Proponents of this type of economics believe that factors such as increasing national income are primarily driven by the forces of money supply and demand. They are

convinced to bring the economy under control by fluctuations in money supply. Some of his ideas are similar to classical economics, but some ideas are completely different. People with these ideas include people like Milton Friedman. Some of these people have even been associated with the US Federal Reserve. The European Central Bank also often follows their proposed strategy of targeting money supply.¹²

Invention of Currency: There are two events in the evolution of economics which not only overcame the difficulties of the 'barter age' but also greatly expanded business. First, the emergence of the trade profession and secondly the role of gold and silver as a medium in the exchange of goods was attributed to the invention of currency. Instead of two, three people came into the business deal.¹³ A trader between a buyer and a seller. Now three people started benefiting from an economic deal. The first is the producer of the commodities, i.e. the farmer, the second is the buyer of these commodities from the farmer (trader) and the third is the needy who buys the commodities from the trader. Another major development was the emergence of gold and silver as metallic currency. Earlier arrows, hides and precious stones were also used for this purpose. 4 But it did not have the status of a generally recognized currency. Gold and silver had all the characteristics of a fine currency. Although these two metals were rare, they were not as rare as precious stones. Second, they could be divided into smaller parts. This new discovery made the exchange easier and also gave birth to a new type of trade, i.e. the use of currency as a

commodity or in simple words 'usury business'.¹⁴

Earlier, an economic transaction consisted of commodities produced in a farm or factory and exchanged in the market, but now the term 'Zar' has two more uses: one is 'Medium of Exchange'.) and lending other money at interest. Now the 'Zardar' had two options: either to try to earn profit by investing the money in the business of producing goods and commodities and also the possibility of loss in this business, or else the 'Zard' could give other people a pre-determined profit. Lending for a specific period i.e. interest business. This form of trade was not much possible in the 'barter era'. It is said that the first usury in human history was given by a 'Neolithic' farmer in the form of seed to his cousin, the farmer, and demanded more than the amount given at the time of cultivation, but not to give sex or commodities on interest. This business did not develop much.¹⁵

This invention of 'Zar' eased this difficulty as it was very easy to transmit. Usury business was both easy and safe, as there was little chance of loss, so the usury business flourished, which led to the division of the economy into two parts: the bulk of the economy in the fields and factories, and the commodities in the factories. He became engaged in the production of commodities and their buying and selling in the markets. This use of capital, labor and time became the basis of economic development. In the language of 'modern economics', this is the real sector of the economy. There were few people working on interest. During this period,

businessmen working in the real sector used to do the work of interest along with the production of goods. There were also a few people who did nothing but lend capital on interest. In a way, these people would meet the economic borrowing needs (Credit Needs). Since banks or financial institutions did not yet exist, borrowers and lenders had direct contact. What we call P2P (Person to Person Finance) in modern language is financial process of person between person.¹⁶

The trade profession helped a lot in the ease and growth of business. People engaged in the production process were spared the hassle of selling their own produce. The buyer also got ease as various things are now available to him at one place. Apart from marketing facility, traders used to provide loans to needy people, even kings used to borrow from them in case of war. In spite of all these eases and facilities, the trade profession had no respect in the society.¹⁷

In ancient Greek civilization, every sector of society had its own 'god'. It is a matter of great surprise that the god of merchants, thieves and robbers was one, who was called by the name of Hermes.¹⁸ This was also the case in the Roman Empire. The god of robbers, thieves, robbers and traders was now Mercury, and trade was a low-level occupation even in this period. The history of England is full of examples, in which the king of the time borrowed money from the merchants and refused to pay it back.¹⁹ In times of famine or shortage of foodstuffs, the merchants would stockpile, in order to sell these essential commodities at high

prices. On such occasions, the government officials would raid the warehouses of the traders and seize the stored goods and often the traders would be arrested. Common people would gather together to watch such scenes, but even in their hearts there would be no wave of pity for the distressed merchants from whom they used to buy consumer goods morning and evening.²⁰

It is a fundamental question for the student of 'Economics' that what was the reason for the social hatred and contempt associated with the merchant and trade profession in ancient times? Apparently, the merchant had an important role in economic development and trade was the basis of economic life, but why such an attitude? The status of a businessman is different and unique compared to other professions in the society. People go to Hakim or Doctor only in case of illness. Scholars are also approached to resolve any academic issues, but contact with businessmen is frequent. One has to go to the merchant's shop in the morning and evening for food items. This contact is sometimes as a buyer and sometimes as a seller. In both buying and selling situations, the general expectation is a fair deal, in which both the buyer and the seller benefit, as in the 'barter era' because an 'economic deal' was between two people only. But with the arrival of the businessman, this balance changed. Now there were three parties to an economic transaction and the trader acted as a liaison between the two primary parties, the seller and the buyer. A merchant's profession is respected only when an economic transaction amounts to an 'exchange of equal value' between the two principal parties.²¹

As mentioned, the first forms of exchange in human history were based on force, in which the powerful took resources away from the weak, while trade, market, or voluntary exchange, which Buyers and sellers participate willingly and willingly in the transaction process. Therefore, it is important that the voluntary exchange of the market is free from all forms of theft and coercion. Due to the greed and greed of businessmen to earn more profit, economic deals become 'bargains of equal value', just as robbers and thieves used to rob the common people by open force. In the same way, the businessmen used to extort their deposits from the common people by humbly and smilingly taking exorbitant profits or hoarding things. Perhaps because of this theft-like trade, ancient Greek philosophers put thieves, bandits and traders in the same line.²²

This journey of economic evolution progressed step by step. The transition from one stage to another gave rise to certain practices, which became a permanent part of the economic process. For example, the concept of ownership, the establishment and performance of markets, the free determination of prices and government intervention in them and interest trading etc. These are the main pillars of the economic journey, from which the concept of 'Fragmented Economics' emerges in the mind. An economic system was yet to be completed with these elements of economics.²³

At the end of the 6th century, Rome and Iran were the two largest stable governments in the world. Dispersed economy was present

in both these civilizations. The movement of commercial markets, the determination of prices, sometimes according to the forces of supply and demand and sometimes according to the will of the government. Sometimes repayment and sometimes confiscation of money borrowed on interest, sometimes acknowledgment and sometimes denial of the concept of ownership. All these basic pillars of economics were there, but till now they were not defined under any laws and regulations. In simple words, humanity was still in search of such an 'economic theory', which would describe all the aspects of the economic process in the form of rules and regulations. Along with the emergence of Islam in the first quarter of the seventh century, an economic system also came into existence, which was described in the Qur'an and was implemented in the state of Medina.²⁴

The people of the West became aware of it during the time of Umar bin Al-Khattab. Later this system spread all over the world and remained as the 'dominant economic theory' in the world for four hundred years.

Islam and Monetary System

The 7th century is generally known as the 'Age of Faith'. Therefore, the first economic system of the world was considered as worship and rituals. The same thing happened in Judaism and Christianity before that. Interestingly, all three inspired religions have discussed the huge economic issue of the use of 'capital', and all three religions have prohibited the use of 'capital' as usury.²⁵

However, the 7th century 'Madinah Economics' not only opposed usury but also explained the correct way of using capital.²⁶ Along with the prohibition of usury, this system gave honor to trade and the tradesman's profession. He declared trade as a source of social welfare and called and made the true businessman the most respected person in the society. At a time, when the world was completely unfamiliar with the concept of an 'open economic market' (free market economy). In the 7th century, this system came into practice in the state of Medina, where the market was as revered and sacred as a mosque, and prices in the market were always determined by the forces of demand and supply of commodities. After prevailing in the world from the 7th to the 11th century, this economic system disappeared into the mists of time. In 2011, Malaysian economist Murat Cizacka called Medina Economics the world's first Market Based Economic System.²⁷ In 2014, German scholar Benedict Koehler went one step further and published his famous book Early Islam and In Birth of Capitalism, it is said that the system of investment was born in the early period of Islam.²⁸

Data Interpretation

An analysis of the provisions of the Constitution of the Islamic Republic of Pakistan, which are related to basic financial matters and the government budget or budget, and which have been mentioned together, was presented. But there are two other clauses in the constitution, which are closely related to financial matters, although they are described in another chapter of the

constitution. These clauses are 160 and 161. The first clause allows the government to raise loans against the guarantee of the Federal Consolidated Account and to issue guarantees, within the limits specified in the law made by the *Majlis Shura*. Article 161 prescribes the constitution, tenure and functions of the National Finance Commission. This commission makes recommendations for the allocation of resources acquired at the federal level between the federation and the provinces.²⁹

The debt is the accumulation of the deficit of the budget year after year. So the National Debt tells us the amount, which, in aggregate, we have created by spending more than our own resources, and on which interest payments are the largest expenditure in our budget at the moment, second only to defense expenditure. It has become such a huge burden, which is not only difficult to bear but also has a severe negative impact on the economy and causes further damage. For example, when the government borrows so much from the market every year, the resources needed for private sector investment will not only decrease, but their cost, i.e. the interest rate, will also increase and thus the investment environment in the country will deteriorate and will fall prey to, as is currently happening.³⁰

Constitutionally, the budget has not been mandated to obtain explicit approval of the necessary resources along with the approval of expenditure. This frees the government to spend more than resources and to cover the surplus resources or budget deficit by borrowing. This is the point which is actually the cause of our economic

depression. Just as the constitution imposes strict restrictions on the collection of taxes, the same strictness is not found in the collection of loans. We have also made it clear that all revenue and loan proceeds are deposited in a consolidated account and since the funds in the account cannot be determined whether they are from taxes or loans.³¹

The constitution has given the government open permission to spend whatever amount it wants, the major source of which will be met from loans. The constitution also states that the debts shall be kept within the limits, which may be fixed in the law made by the Parliament. This law was finally made in 2005 after 58 years, with the title: 'Fiscal Responsibility and Debt Limitation Act 2005'. The most important provision was that the national debt should not exceed 60% of the gross national income, and if this happened, the finance minister would make a statement to the parliament explaining the reasons for departing from this limit. And the period will also be mentioned, in which the loan will be brought back within the specified limit as soon as possible. In addition, the law also mandated the government to submit two reports to Parliament: one on financial affairs and the other on the state of debt, both of which would contain a statement of government policies.³²

One of the most salient features of Islamic banking is that it, as part of a faith-based system, has an obligation not to engage in activities that are harmful to society and its moral values. Therefore, Islamic banks cannot invest in casinos, nightclubs,

breweries, etc. It is important to note that casinos are one of the primary means of money laundering and dealing with them may expose traditional banks to such risks.

A second distinguishing feature of Islamic banking is that Islamic banks must undergo additional tests in addition to the rules and regulations that apply to traditional banks. H. To meet the overarching requirements for Shariah compliance. This requires that Islamic banking customers not engage in paper transactions, but in transactions that are supposed to bring social benefits to society by creating real wealth and adding value to the economy. I have. A strict Know Your Customer (KYC) policy is therefore essentially a built-in requirement for Islamic banks. Islamic banks need to know their customers and their businesses before they can start trading socially responsible and Shariah compliant. KYC is the first line of defense against money laundering in any banking system.

Third, the Islamic nature of funding and deposit taking inherently discourages shady/private assets from which to base money laundering activities. Disclosure standards are strict. Islamic banks require clients to disclose the source of their funds to ensure that they do not come from non-Islamic means. Drug dealing, gambling, extortion, vandalism, or other criminal activity. In terms of funding, Islamic banks must ensure that funds are directed to identifiable and permissible productive activities. Most types of Islamic finance are asset-backed. In other words, it is used to finance certain physical assets such as machinery, inventory, and equipment.

Fourth, the role of banks is not limited to being passive financiers only interested in timely interest payments and loan repayments. Banks are trading partners and have to deal with the nature of their business and their customers' bottom line. In case of business loss, Islamic financiers have to share this loss. To avoid loss and reputational risk, Islamic banks need to pay special attention to their customers.³³

Conclusion

Pakistan is a moderate and progressive Islamic state and will not accept any proposal to pursue a policy that is dangerous to the world. Pakistan is and will continue to be a responsible member of the international community and is committed to exploiting the tremendous opportunities offered by globalization and the financial integration of world markets for the benefit of its people. I'm here. There are no proposals by any significant group or political party to support isolation or withdrawal from the international economic system. Second, Pakistan lacks the prerequisites for a robust and well-functioning Islamic economic system. Islamic moral values that emphasize honesty, honesty, honesty, full disclosure and transparency are not yet widely practiced in Pakistani businesses. With these conditions in place, a true Islamic economic system will be put in place, resulting in better prosperity for the majority of Pakistanis. Banks that reasonably adhere to Islamic banking principles are less likely to engage in illegal activities such as money laundering and terrorist financing than traditional banks. However, no organization can rule out the presence of fraudulent

elements. Despite these built-in safeguards, it is the duty of states and regulators to ensure that they have adequate laws, regulations, and enforcement mechanisms to deal with potential criminals. In summary, at any point in the future, if Islamization is truly accepted and practiced, the economy, especially under the current Western economic It will enhance poverty reduction. In fact, this eliminates the sources of instability, violence, and terrorism that arise from feelings of deprivation.

Suggestions and Recommendations

First, administrative structure powers, legal power and financial resources should be transferred to the lower level through local governments, so as to ensure the provision of basic life facilities to the people living in villages, towns and cities. The 'Ordinance 2021' implemented in Punjab and Khyber Pakhtunkhwa should be implemented with minor modifications. A fact check shows that people are willing to pay taxes, fees and other dues, provided they see the proceeds being used by their local government. Lahore, Karachi, Faisalabad, Multan, Gujranwala, Peshawar, Quetta and Islamabad can raise substantial resources from property tax. These resources should be used to meet the growing urban needs.

Second, by increasing the production of small and medium farms, a substitute for imports of agricultural goods can be obtained. Apart from this, progress should be made towards the export of finished products, medium innovation in technology and industries with fast growth and innovation in production instead of

traditional products. There is a trend of such healthy competition in the global market. For this, reduction in cost of import and transportation of goods, 'single window operation', coordination with global value chains, foreign direct investment in manufacturing of export products in special economic zones, improvement in quality and Innovation, skill and technical training and brand acquisition and expansion are essential. Pakistan's share in global exports should increase from 1.0 to 5.0.

Third, reduce the burden on organized sectors and taxpayers by eliminating withholding tax, advance tax, super tax, minimum tax and other uneven taxes. Apart from this, tax audit and tax appeal and tax code procedures should be made easy and fast. The tradition of intimidating taxpayers who do this should be ended. They should be brought up to at least four percent of the GDP while expanding the tax base and improving the non-tax revenues from the provinces.

Fourth, the ratio of debt to GDP should be reduced from 80 percent to 60 percent. For this, the policy of increasing production and reducing expenses and giving loans or grants to state enterprises will have to be changed. Have a government account. Government securities should be based on banks rather than non-banks. Funds coming from the outside world should be minimal in the form of loans. Instead, the increase in exports and foreign direct investment will reduce the trade deficit and eliminate the need to take concessional, commercial and short-term loans. Relying on multilateral arrangements

will reduce the average burden of external debt.

Fifth, encourage the banking system to increase private sector credit to GDP ratios to levels comparable to those in South Asia. Debt capital markets should be developed to raise funds for large projects with longer durations. Equity market flotation should be cost effective and simplified. Private equity, venture capital, angel funds for both start-ups as well as scale-up enterprises should be established. The financial strength of agriculture, low-cost housing and SMEs should be improved.

Sixth, make maximum use of Special Technology Zones, IT Parks, National Incubation Centers, Accelerators and Entrepreneurship Centers and improve the human resources required for IT and IT-enabled services. Invest in certification and accreditation. Technology firms should be relocated within university campuses for direct links between academics and industry. Conducting spectrum auction through universal service, bringing in 5G, fabrication of collectively owned towers, right-of-way facility, local manufacturing of smartphones, expansion of internet connectivity and integrated districts of Balochistan, Gilgit-Baltistan, Khyber Pakhtunkhwa, Sindh. Internet coverage should be extended to rural districts.

Seventh, bring all government departments and agencies on an e-governance platform, including internal and external communication and information exchange, common database, automation and digitization of all business processes, payments, uploading of all government

forms and information. Have e-office facility for dynamic database.

Eighth, invest in emerging technologies. Reform science and technology institutes and university research departments to make competitive grants performance-based based on international peer reviews and participation in local problem-solving applications. An atmosphere of regular exchange and cooperation should be established with leading research institutes in developed countries and China. STEM courses should be started at the middle school level. Scholarships should be provided for higher research training from reputed universities abroad.

Ninth, reorganize the existing training and skilling institutions like TUTTA, Skills Development Fund and similar initiatives to develop human resources that are in demand in the country and abroad in the future and can get good jobs.

Tenth, women's participation in employment and economic activity should be increased to 40 percent. Scholarships for girls at the college and university level must be increased. Facilities, flexible working hours and leave facility including maternity pay and protection from harassment in public and private sectors should be provided.

Eleventh, restructure the civil services by removing the artificial distinction between CSS cadre officers, non-cadre and ex-cadre officers who are mostly experts in their respective fields. Recruitment, training and career development of the latter are being brought on par with CSS. Posts should be created in special higher pay scales of MP

and SPSS to induct experts into the government. Many posts in the Secretariat should also be reserved for experts.

Twelfth, implement the Renewable Energy Policy and the National Energy Policy to move towards the target of 60% generation from solar, wind, hydro and nuclear sources and reduce dependence on fossil fuels. With government-owned NTDC charging wheeling charges to operate a competitive market model with multiple buyers and sellers. Deregulate gas prices and separate Sui Southern Gas Company and Sui Northern Gas Company.

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