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USURY LAWS IN JUDAISM; A CRITICAL STUDY

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ABSTRACT

The notion of usury in Judaism is critically examined in this article with an emphasis on its historical evolution, interpretation, and current applicability. Within Jewish religious and societal contexts, usury (the charging of excessive interest on loans) has long been a topic of ethical and legal discussion. This study covers the development of Jewish usury laws and their guiding principles through an examination of ancient texts, rabbinical commentaries, and legal decisions. The research starts by examining the history of usury laws in Jewish scripture, particularly in the Talmud and the Hebrew Bible. To understand the underlying motives and societal issues that affected the formation of Jewish usury regulations, it analyses passages that speak to loan practices and their moral ramifications. The biblical prohibition receives special consideration. The biblical prohibition against charging interest to fellow Jews is given special consideration since it has important ramifications for societal harmony and economic justice. Jewish usury regulations add to the larger conversation on ethical finance and the interaction of economic principles and religious beliefs. Policymakers, academics, and practitioners can learn important insights into the Jewish perspective on lending, borrowing, and economic justice by comprehending the historical development and guiding principles of usury regulations. This will promote communication and understanding between various communities.

INTRODUCTION

Usury is derived from the Medieval Latin term *usuria*, and from Latin *usura* which means interest or excessive interest. The word "interest" is derived from the Latin verb *interesse* which means an increase on principle. It also means compensation for a loss that a creditor had incurred through lending.

A time was there when the man was free from money. When we go back to the Biblical story of Eve and Adam, we found that they were getting everything from nature without any cost. In ancient societies, the substitute for money was wheat, barley, and cattle, and trading was done through the barter system. The emergence of banking in Mesopotamia started in Babylonia, where temples and palaces offered safe places for the protection and security of valuables. In the beginning, only grain deposits were allowed but later on commodities and costly metals like costly metals, agricultural implements, and cattle were also accepted, and before the invention of metal coins various objects and things were used in place of money.ⁱ

Clay tablets or tokens and abstract numbers were common in practice as counters from present-day Sudan to Iran before 3000 BC (roughly before 8000 BC). Clay tablets or tokens and abstract numbers were common in practice as counters from present-day Sudan to Iran before 3000 BC (roughly before 8000 BC). Cowrie shells, as well as copper and bronze replicas of them, were used as currency in various regions in China around 1200 BC. It became extremely prevalent in China around 1600 BC. A thousand years later, in 600 BC, people in China used bronze and copper replicas of cowrie shells as early money in the form of primitive coins.ⁱⁱ

They were the first proper money made up of gold and silver. These were invented by the Greeks in Ionia, in the western part of modern Turkey. The flying cash of the Tang (618-907) dynasty, used circa 800 AD, is the first well-documented use of paper money. The phrase flying cash was coined because, unlike metal coins, it can drift away in the wind. To minimize the cost of moving massive amounts of metal across long miles, the government produced paper instead of coins. Although it was not a legal currency at that time, merchants began to use it as a useful and much easier means of trade.

Scholars who have studied early human societies like anthropologists and archeologists highlighted that money progressed gradually in early societies because of various features like ceremonies, festivals rituals, and remuneration for killing a person or for the marriage purpose. Gold and silver objects were offered as sacrifices and tributes to gods, priests, and priestesses in religious observances and festivals. It was also utilized to offer honor to kings in ancient civilizations but over the centuries, it has reflected various manipulations in political, social, economic, religious, governmental, and other cultural insights that have a major role in family and neighborhood life. It has not only represented but also enabled us to bring about such transformations, as well as served a crucial role in the advancement of science and technology. Industrialization, Capitalism, Socialism, Communism, and Fascism, are some of the products of money, that took birth on the plantation called our earth.

Prohibition on Usury

In Judaism, usury is scripturally and doctrinally forbidden among non-gentiles. It is prohibited mainly to preserve moral, ethical, religious, and legal issues and to enhance sympathy and brotherhood in their society. Biblical scripture is very clear on the issue. It strictly prohibits lending at interest.ⁱⁱⁱ

The Hebrew word that is used in the Bible for **usury** is *neshekh* which means bite^{iv}. Though in Leviticus *tarbit* (and *marbit*: variant of *tarbit*) which means increases are also used. *neshekh* and *tarbit* are two biblical Hebrew nouns whose functional meaning is interest charged on loans.^{vi}

The following biblical verses testify to the appearance of the term *neshekh* (usury, interest) and its prohibition upon Jews.

- 1) “You shall not lend him your money at interest, [neshekh] or give him your food for profit [tarbit].”^{vii}
- 2) “You shall not lend upon interest [neshekh] to your brother, interest [neshekh] on money, interest [neshekh] on victuals, interest [neshekh] on anything that is lent for interest [neshekh].”^{viii}
- 3) “To a foreigner, you may lend upon usury [neshekh], but to your brother you shall not lend upon usury [neshekh], that the Lord your God may bless you in all that you undertake in the land which you are entering to take possession of it.”^{ix}
- 4) “... does not lend at interest [neshekh], or take any increase [tarbit], withholds his hand from iniquity, executes true justice between man and man.”^x
- 5) “... lends at interest [neshekh], and takes increase [tarbit], shall he then live? He shall not live. He has done all these abominable things; he shall surely die; his blood shall be upon himself.”^{xi}
- 6) “...withholds his hand from iniquity, takes no interest [neshekh], or increase [marbit], observes My ordinances, and walks in My statutes; he shall not die for his father's iniquity; he shall surely live.”^{xii}
- 7) “... you men take bribes to shed blood; you take interest [neshekh], and increase [tarbit], and make a gain of your neighbors by extortion, and you have forgotten Me, says the Lord God.”^{xiii}
- 8) “...who does not put out his money at interest [neshekh], and does not take a bribe against the innocent.”^{xiv}

So, in light of these verses, it is evident that the Biblical restriction on interest is confined to the brotherhood only and is allowed to charge the non-Jewish (Gentile) folks. In *Exodus and Leviticus* prohibition is thought to be implemented exclusively on the loans granted to the sick and poor.

Prohibition in Talmud: The Talmud explicates that granting loans is more rewarding than charity. Torah has used two synonyms *Neshekh* and *Tarbit* to simplify the meaning of interest. The rabbis agreed that these two terms are

synonymous and the prohibition applies to the borrower, lender, witnesser “(who attests the contract of an interest-bearing debt)” and even to the scribe who documents the deed. In Talmud, laws against usury are explained in Mishna **Bava metzi’a** or **Baba metzi’a**. It states that:

The following are prohibited and rendered prohibited by the smallest quantity: [a cask of] yen nesekh; an idolatrous object.^{xv}

A post-Talmudic understanding of usury in Judaism was proclaimed by the 12th-century scholar Maimonides (*Musa Ibn Maimun*). Moses Maimonides emphasized the charitable aspects of the biblical prohibition of usury. His goal was identical to the Talmud's but his methods involve giving gifts, loans, and even investments in business partnerships. Maimonides's charity system was an independent mitzvah of making loans to the poor. According to him: lending money to the poor man is a more meritorious deed than giving charity to him who begs for it. He believed that more shame exists in accepting charity than in accepting a loan. Thus, granting a free loan not only money, but also tools, food, or anything that the borrower needs is considered one of the very highest forms of charity.

Maimonides states: *“There are eight levels in charity, each level surpassing the other. The highest level beyond which there is none is a person who supports a Jew who has fallen into poverty [by] giving him a present or a loan, entering into a partnership with him, or finding him work so that his hand will be fortified so that he will not have to ask others [for alms].”* The Torah further states: *“You shall support him, the stranger, the resident, and he shall live among you.”*^{xvi}

In general, Maimonides showed little concern for the theoretical aspects of usury and instead condemns the taking of interest as a simple case of one Jew's exploitation of another: *“Why is (usury) called neshekh? “Because (the lender) bites (noshekh) and afflicts his neighbor and eats his flesh.”*

He argued that it is compulsory to take interest on loans from non-Jews but such loans should be confined to being within narrow limits

He supported the biblical prohibition of usury with his idea that a Jew must help his Jewish brother by endowing him with a gift or loan. A Jew can also offer him a partnership and strengthen his hand until he needs no longer to be dependent upon others. He further explained that “shades of usury” weaken the essence of brotherhood which joins the Jewish society together. Maimonides permitted the interest in certain conditions. He stated that a person can provide money to a second person if the second person agrees to give a particular larger amount of money to a third person or convince a third person to give the first person a specific larger amount of money.^{xvii}

Transition in Usury Laws

The modern era witnessed a period of total victory for usury. To overcome this evil practice modern and contemporary Rabbis and Jews succeed to implement the medieval concept of *Hetter Iska*

Hetter Iska: This document was the legalization of making profits through investment. It comprises a specific genre of silent partnership. *Hetter Iska* document is divided into three parts: 1) *Iska* (2) the investor (3) the one intended to use the money. In such a transaction, a template with the name *Hetter Iska* would be finalized in front of two witnesses addressing that the lender or investor would provide money to the borrower for a mutual. The borrower alone would operate the business and will be responsible for all losses. He would also assure the lender a certain amount of profit. The very necessary notion in the text of *Hetter Iska* was that it might not include the terms such as loans or interest because such terms would contradict the very essence of *Hetter*.^{xviii}

During the Amoraic period (15th century) in Babylonia, the laws against the ban on interest were no longer consistent because of economic needs. The halakhic scholars defined *Hetter Iska* as an approved way of refabricating a loan so that it became an investment instead of a loan. They made a clear distinction between loans and deposits. According to them, a **loan** is a transfer of ownership from the lender to the borrower against the borrower's commitment to return the commodities similar to those borrowed upon a fixed date. While **deposit** in halakhah is to transfer of possession without transfer of ownership. Every loan or credit transaction is considered a partnership between the investor and the borrower. The investor has a right to receive a complete report of the objectives and purpose of the investment, profits, and losses from the borrower. The intention of scholars during the Talmudic age was not necessarily to avoid the prohibition of interest. They tried to create a uniform method for a joint venture between capital and a labor community.^{xix}

*This halachically valid formula for loan administration was supported by many contemporary rabbis. They believed that it is not interesting in the sense that a lender can't take benefit of the borrower and the borrower cannot have more rights to the money and profit potential than the lender. It has also been recognized by civil courts in full conformity with Jewish law. Most of the banking systems in Israel use to practice this document in their contracts. The prohibition against usury in Biblical law is almost out of practice. The legalized edition of the *Hetter Iska* is adopted by the Orthodox community as well. Despite the ban Jews broke their laws in the matter of usury and thus interest holds an indispensable position in conventional banking throughout the world.*

CONCLUSION:

The biblical narrative on usury testifies that it is a great sin to charge interest from the Jews but not from the Gentiles. They took this benefit from their scriptural interpretation and officially practiced this evil that has now become the most important channel of trade and business transactions. The biblical

laws on usury have been distorted by Jews themselves and they maintain diverse beliefs regarding usury and their beliefs differ from one Jewish group to another. The concept of Hetter Iska introduced by the Medieval Rabbis emerged due to the growth of high economic needs. The halakhic rabbis initiated a transition in usury laws by introducing the document of hetter iska which is a legalization of making profit through investment and partnership. The world banking system openly welcomes to do business through loans on interest.

Usury on loans should be prohibited to preserve and enhance the sympathy and brotherhood in their society.

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