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B.Com Honours | Semester V | Calicut University

FUNDAMENTALS OF ISLAMIC COMMERCIAL LAW

Course Code: COM5EJ312 • Module 4 Notes

Module IV: Loan and Debt in Islamic Commercial Law

Covers loan contracts (Qard), debt rules (Dayn), time value of money distinction between trade vs loans, collateral security (Rahn), early settlement rebate (Ibda), and debt transfer (Hawalah).

Unit 17: Introduction to Loan (Qard) & Debt (Dayn)

Qard (Gratuitous Loan): Gratuitous transfer of fungible property returned in equal quantity without interest. *Qard Hasan* (Benevolent Loan): Granted purely for charitable/social assistance.
Dayn (Debt Liability): Financial obligation resulting from trade credit or loan.

Unit 18: Rules & Documentation of Debt Contracts

Debt Documentation: Statutory requirement of written debt contracts witnessed by two parties (Surah Al-Baqarah 282). Collateral Security (*Rahn*): Pledging tangible asset as security against default.

Unit 19: Time Value of Money in Loans & Debts

Shariah Distinction on Time Value of Money:
1. Permissible in Trade/Sales: Time value is recognized when selling goods on deferred payment (e.g. Spot price ₹100 vs 1-Year Deferred Murabaha price ₹120).
2. Prohibited in Cash Loans/Debts: Time value cannot be charged on pure cash loans (e.g. Lending ₹100 cash and demanding ₹120 back is pure Riba).

Unit 20: Termination, Settlement, & Transfer of Debt Contracts

Ibda (Early Settlement Rebate): Voluntary reduction granted by creditor for early lump-sum debt repayment without prior contractual obligation.
Hawalah (Debt Transfer): Transferring debt obligation from original debtor (*Muhil*) to a third-party debtor (*Muhal 'Alayh*).

Practical Case Framework 1 (Time Value of Money Trade vs Loan Matrix): Compare transaction type, asset backing, price markup permissibility, and Shariah ruling.

Time Value of Money Shariah Framework Table:

Financial Transaction Type	Underlying Asset Backing	Time Value Markup Ruling
Deferred Commercial Sale (Murabaha)	Real commodity / asset trading	Permissible (Price markup for deferred time)
Cash Loan Contract (Qard)	Pure monetary currency exchange	Forbidden (Interest charged on time is Riba)
Late Payment Default on Debt	Past-due monetary debt liability	Forbidden (Compounded late interest is Riba)

Practical Case Framework 2 (Islamic Debt Settlement & Transfer Mechanisms Matrix): Detail debt mechanism, legal definition, conditions, and practical application.

Islamic Debt Settlement Protocols Table:

Debt Settlement Mechanism	Legal Shariah Definition	Operational Conditions & Rules
Rahn (Collateral Pledge)	Pledging asset as security against debt	Creditor cannot use pledged asset without consent
Ibda (Early Settlement Rebate)	Discretionary debt discount for early pay	Must be voluntary; cannot be stipulated in contract
Hawalah (Debt Assignment)	Transferring debt obligation to 3rd party	Requires mutual consent of creditor & new debtor