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HOUSEHOLDS' OVER-INDEBTEDNESS: AN EXPLANATION FROM A *SHARĪʿAH* PERSPECTIVE

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ABSTRACT

Excessive indebtedness at the individual level can create vulnerability to exploitation (Ẓulm), leading to a modern form of slavery known as debt bondage. Household over-indebtedness has become an increasingly widespread phenomenon in Malaysia, compounded by the negative economic impact of the COVID-19 pandemic. In response, this study explores the different aspects of indebtedness from a Sharīʿah perspective. The research draws on a qualitative

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methodology, including an intensive literature review, analysis of Quranic verses and the sayings of the Prophet. (pbuh), as well as interviews with reputable scholars. The study provides a detailed understanding of Sharī'ah's position on debt in various circumstances, the relationship between debtors and creditors, preventive solutions, and solutions for those over-indebted. The study highlights rules that regulate the relationship between debtors and creditors and suggests solutions to assist households in financial difficulties. The study concludes that incurring debt should be for Sharī'ah-compliant purposes and with a genuine intention to pay back, regardless of the hierarchy of needs. This study makes a valuable contribution to the literature on preventing debt bondage and offers insights that can help households avoid over-indebtedness.

Keywords*: creditors, debtors, households, over-indebtedness, Sharī'ah*

INTRODUCTION

The human need for debt financing is as old as human civilization itself. It is part of the life of humankind. In the modern world, debt has become a common personal means of coping with the rising cost of living and changing lifestyles.[5] However, since Islam is a way of life compatible with the nature of human beings, *Sharī'ah* law does not prohibit the practice of debt financing.[6] Islam is not against a decent, comfortable, or even abundant life, according to the ideal of moderation, but resolutely against waste or extravagance.

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[5] Tullio Jappelli, Marco Pagano and Marco Di Maggio, "Households' Indebtedness and Financial Fragility," *Jacques Polak Annual Research Conference*, (2008): 43, https://doi.org/10.12831/73631; Toh Siaw Mien and Rusmawati Said, "A Cross-Sectional Household Analysis of Household Consumption Patterns: An Indirect Approach to Identify the Possible Factors of Personal Bankruptcy," *Jurnal Ekonomi Malaysia*, vol. 52/3 (2018): 231–246, https://doi.org/10.17576/JEM-2018-5203-18; Kingstone Mutsonziwa and Ashenafi Fanta, "Over-Indebtedness and Its Welfare Effect on Households Evidence from the Southern African Countries," *African Journal of Economic and Management Studies*, vol. 10/2 (2019): 185–197, https://doi.org/10.1108/AJEMS-04-2018-0105.

[6] Aidit bin Haji Ghazali, "Consumer Credit from the Islamic Viewpoint," *Journal of Consumer Policy*, vol. 17 (1994): 443–457.

Islam teaches Muslim moderation in life and discourages them from borrowing. But if circumstances force Muslims to borrow, they must do so after careful planning and with the full intention of paying off the debt[7]. Sometimes, people go into debt to buy luxurious and unnecessary things or to satisfy an unwarranted desire due to illusions, class competition, or show-off to enjoy an unsustainable lifestyle while forgetting Allah's warning:

زُيِّنَ لِلنَّاسِ حُبُّ الشَّهَوٰتِ مِنَ النِّسَآءِ وَالْبَنِيْنَ وَالْقَنَاطِيْرِ الْمُقَنْطَرَةِ مِنَ الذَّهَبِ وَالْفِضَّةِ وَالْخَيْلِ الْمُسَوَّمَةِ وَالْاَنْعَامِ وَالْحَرْثِ ذٰلِكَ مَتَاعُ الْحَيٰوةِ الدُّنْيَا ۚ وَاللّٰهُ عِنْدَه حُسْنُ الْمَاٰبِ ﴿١٤﴾

"Beautified for men is the love of things they covet; women, children, much of gold and silver (wealth), branded beautiful horses, cattle, and well-tilled land. This is the pleasure of the present world's life; but Allah has the excellent return (Paradise with flowing rivers, etc.) with Him."

(Surah Ali-'Imrān, 3: 14)

The Quran has powerful words condemning and forbidding extravagance and lavishness. The condemnation is even stronger when it comes to extravagance through indebtedness. In fact, ample evidence in the Sunnah suggests that accumulating debt is a serious matter and should not be undertaken unless there is a real need. Freedom from debt was one of the things the Prophet Muhammad (*pbuh*) used to mention in his supplication regularly. As narrated by Anas Ibn Mālik, the Prophet Muhammad (*pbuh*) used to supplicate Allah in his prayer, saying:

اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الْمَأْثَمِ وَالْمَغْرَمِ". فَقَالَ لَهُ قَائِلٌ مَا أَكْثَرَ مَا تَسْتَعِيذُ يَا رَسُولَ اللَّهِ مِنَ الْمَغْرَمِ قَالَ" إِنَّ الرَّجُلَ إِذَا غَرِمَ حَدَّثَ فَكَذَبَ وَوَعَدَ فَأَخْلَفَ

"O Allah, I seek refuge with you from all sins, and from being in debt." Someone said, O Allah's Messenger! (I see you) very often you seek refuge with Allah from being in debt. He

[7] Yusuf Qardawi, *Fiqh al-Zakah II: A Comparative Study of Zakah, Regulations and Philosophy in the Light of Qur'an and Sunnah* (Jeddah, Saudi Arabia: Scientific Publishing Centre King Abdulaziz University, 2009).

> *replied, "If a person is in debt, he tells lies when he speaks, and breaks his promises when he promises."*[8]

In the above Hadith, out of all the calamities of life that befall human beings, the Prophet (*pbuh*) chose to ask Allah (*swt*) for protection from debt. The Hadith also explained that when a person is in debt, he is likely to be morally corrupted by telling lies and breaking promises. Accordingly, some researchers believe Islam strongly discourages the massive use of debt as it is considered to have a devastating effect and could lead to harmful consequences.[9]

The definition of debt from an Islamic perspective varies depending on the variety of opinions among different schools of thought. According to Maliki scholars, debt is a valuable property provided by the creditor to the borrower, only for the benefits arising from the property. While Imam Shafie sees debt as a transfer of the use of a property from the owner to the borrower, where the borrower must return the property in a similar condition or replace it with property of equal value. Hanafi scholars argue that debt is a special contract where a product is given for the borrower's use by the creditor. This product must be repaid in an equivalent value. Imam Hanbali also explained that the debt can be recognized as a contract entered into by the creditors, which involves an agreement to transfer the property to the borrower with the borrower's promise to return it.[10]

This study aims to explore the issue of the over-indebtedness of households from the Islamic perspective. After introducing the topic, the paper discusses the literature related to households' over-indebtedness from a *Sharī'ah* perspective, the relationship between debtors and creditors, as well as the available solutions for genuine excessive debt situations. This section also discusses the definition of indebtedness from different schools of thought. The following sections discuss the research methodology and an in-depth literature review, followed by an analysis of

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8 Muḥammad bin Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Dimashq: Dār Ibn Kathīr, 2002), 577, Kitāb al-Istiqrāḍ wa Adā' al-Duyūn, 'Bāb Man Ista'ādha min al-Dayn,' *ḥadīth* no. 2397.

9 Sapora Sipon et al., "The Impact of Religiosity on Financial Debt and Debt Stress," *Procedia - Social and Behavioral Sciences*, vol. 140/2003 (2014): 300–306, https://doi.org/10.1016/j.sbspro.2014.04.424.

10 Abdulazeem Abozaid, "Trade of Debts Resulting from Financial Intermediation: Analysis from Shariah Perspective," J*usticia Islamica*, vol. 19/2 (2022): 247, https://doi.org/10.21154/justicia.v19i2.3970; Wahbah al-Zuhaily, *Financial Transactions in Islamic Jurisprudence*, vol. 1 (Damascus: Dar al-Fikr, 2001).

the findings. In the last section, the conclusion and recommendations are presented.

LITERATURE REVIEW

The bilateral nature of indebtedness requiring at least two parties to be involved in this operation (a debtor and a creditor) makes it possible to distinguish between taking a debt and granting a loan. This section reviews the Quran, the Sunnah and the literature related to these two sides of the coin.

Sharī'ah recognizes the importance of debt in society by authorizing, in some circumstances, debt-generating contracts. The position of Islam regarding debt is clear in Surah al-Baqarah, verse 282, Allah (*swt*) said:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا تَدَايَنتُم بِدَيۡنٍ إِلَىٰٓ أَجَلٖ مُّسَمّٗى فَٱكۡتُبُوهُۚ وَلۡيَكۡتُب
بَّيۡنَكُمۡ كَاتِبُۢ بِٱلۡعَدۡلِۚ وَلَا يَأۡبَ كَاتِبٌ أَن يَكۡتُبَ كَمَا عَلَّمَهُ ٱللَّهُۚ فَلۡيَكۡتُبۡ
وَلۡيُمۡلِلِ ٱلَّذِي عَلَيۡهِ ٱلۡحَقُّ وَلۡيَتَّقِ ٱللَّهَ رَبَّهُۥ وَلَا يَبۡخَسۡ مِنۡهُ شَيۡـٔٗاۚ فَإِن كَانَ ٱلَّذِي
عَلَيۡهِ ٱلۡحَقُّ سَفِيهًا أَوۡ ضَعِيفًا أَوۡ لَا يَسۡتَطِيعُ أَن يُمِلَّ هُوَ فَلۡيُمۡلِلۡ وَلِيُّهُۥ بِٱلۡعَدۡلِۚ
وَٱسۡتَشۡهِدُواْ شَهِيدَيۡنِ مِن رِّجَالِكُمۡۖ فَإِن لَّمۡ يَكُونَا رَجُلَيۡنِ فَرَجُل وَٱمۡرَأَتَانِ مِمَّن
تَرۡضَوۡنَ مِنَ ٱلشُّهَدَآءِ أَن تَضِلَّ إِحۡدَىٰهُمَا فَتُذَكِّرَ إِحۡدَىٰهُمَا
ٱلۡأُخۡرَىٰۚ ﴿٢٨٢﴾

"*Believers! Whenever you contract a debt from one another for a known term, commit it to writing. Let a scribe write it down between you justly, and the scribe may not refuse to write it down according to what Allah has taught him; so, let him write, and let the debtor dictate; and let him fear Allah, his Lord, and curtail no part of it. If the debtor is feebleminded, weak, or incapable of dictating, let his guardian dictate equitably, and call upon two of your men as witnesses; but if two men are not there, then let there be one man and two women as witnesses from among those acceptable to you so that if one of the two women should fail to remember, the other might remind her".*

(Surah al-Baqarah, 2: 282)

Although debt is allowed, strict conditions are imposed on Muslims in order to protect and preserve relations between them. In fact, *Sharī'ah* provides rules to regulate its use and prevent any abuse. In addition, debt admissibility aligns with the objectives of the *Sharī'ah* (*maqāṣid al-Sharī'ah*), which seek to realize benefits and prevent harm to society.

Although Islam encourages leniency of the creditor when the debtor is in genuine financial distress, it is imperative to set a balance between the right of a genuine defaulter to an extension of the deadline and the right of the creditor to receive the payment of the debt. Since most of the transactions in Islamic banks in the Muslim world are debt-based, often, these institutions find themselves in a situation where the debtor is in financial difficulty and unable to pay.[11] In this situation, Islamic banks, for example, find themselves on the horns of a dilemma. Granting an extension of time in the event of default by debtors can sometimes create an injustice towards these institutional creditors.[12] Therefore, how does Islam regulate the relationship between debtors and creditors? What are the rights and obligations of debtors? To what extent are creditors required to provide facilities to debtors?

1. Loan Giving

In the larger conception of creation, all goods and properties belong to Allah (*swt*) and no absolute right of ownership is granted to an individual. All humankind is entrusted with the responsibility of using God's creation according to the teachings of *Sharī'ah* for the ultimate pleasure of Allah (*swt*). The importance of loans in Islam is mentioned in the Quran in Surah al-Baqarah verse 245:

مَّن ذَا ٱلَّذِى يُقۡرِضُ ٱللَّهَ قَرۡضًا حَسَنًا فَيُضَٰعِفَهُۥ لَهُۥٓ أَضۡعَافًا كَثِيرَةً وَٱللَّهُ يَقۡبِضُ وَيَبۡصُۜطُ وَإِلَيۡهِ تُرۡجَعُونَ ﴿٢٤٥﴾

"*Who is there among you who will lend to Allah a good loan that He may return it after multiplying it manifold? Allah*

[11] Dunja Skalamera-Alilovic and Mira Dimitric, "(IR)Responsible Lending and Personal Indebtedness: Consumer Credit Marketing," *International Scientific Conference on Economic and Social Development*, (2017): 14.

[12] Abdelaziz E L Hammaoui and Abdelmajid Hmaittane, "Retard de Paiement En Droit Musulman : Étude Comparative Avec Le Droit Malaisien et Le Droit Européen," *International Review of Entrepreneurial Finance*, vol. 2/1 (2019): 96–123.

alone can decrease and increase (wealth), and to Him you shall all return".

(Surah al-Baqarah, 2: 245)

The concept of "good loan" in this verse refers to the loan, which is lent without any personal gain or interest but given with the sole intention of pleasing Allah (*swt*). This good deed will be duly rewarded by Allah (*swt*). A loan (*Qarḍ*) is classified as a charitable contract in Islam with no contractually stipulated increase in the amount of capital authorized. A loan is considered as cutting-off a portion of one's property. It is also known as a Salaf, which means an advance that refers to the loan amount given to the borrower with an expectation of repayment in the future.[13] The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), in its *Sharī'ah* Standard No.19 covering Loan (*Qarḍ*), define it as the transfer of ownership in fungible wealth to a person on whom it is binding to return a wealth similar to it.[14] In fact, the Messenger of Allah (swt) emphasized the virtuous nature of interest-free loans in a hadith recited by Ibn Mājah and al-Bayhaqī on the authority of Anas Ibn Mālik and by al-Ṭabarānī in similar wordings on the authority of Ummahs. It is narrated on the authority of Anas that the Messenger of Allah (*swt*) said:

رَأَيْتُ لَيْلَةَ أُسْرِيَ بِي عَلَى بَابِ الْجَنَّةِ مَكْتُوبًا الصَّدَقَةُ بِعَشْرِ أَمْثَالِهَا وَالْقَرْضُ بِثَمَانِيَةَ عَشَرَ . فَقُلْتُ يَا جِبْرِيلُ مَا بَالُ الْقَرْضِ أَفْضَلُ مِنَ الصَّدَقَةِ. قَالَ لأَنَّ السَّائِلَ يَسْأَلُ وَعِنْدَهُ وَالْمُسْتَقْرِضُ لاَ يَسْتَقْرِضُ إِلاَّ مِنْ حَاجَةٍ

"*On the night on which I was taken on the Night Journey (Isrā'), I saw written at the gate of Paradise: 'Charity brings a tenfold reward and a loan brings an eighteen fold reward.' I said: 'O Jibril! Why is a loan better than charity?' He said: 'Because the beggar asks when he has something, but the one who asks for loan does so only because he is in need?".*[15]

Allah (*swt*) regards the act of giving loans as charity. Therefore, Muslims are encouraged to give loans in order to alleviate the hardship of borrowers, as people usually go into debt due to desperate needs. This Hadith shows that Islam encourages Muslims to lend to those in need. The

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13 Wahbah al-Zuhaily, *Financial Transactions in Islamic Jurisprudence*.

14 AAOIFI, *Shari'ah Standards* (Kingdom of Bahrain: Manama, 2015).

15 Muḥammad Ibn Yazīd Ibn Mājah, *Al-Sunan al-Kubrā*, vol. 2, (Cairo: Dār Ta'ṣīl, 2014), 507, 'Bāb al-Qarḍ,' *ḥadīth* no. 2437.

main feature of the practice of borrowing in Islam is based on the concept of mutual cooperation (*ta'āwun*), which is mutual help to assist those in need.[16] The concept of *ta'āwun*, serves to strengthen the relationship between the borrower and the lender. Granting a loan is an act of giving something of value to someone in need.

In the case when the debtor is in genuine financial trouble, Islam encourages the creditor to give the debtor more time for settlement. It urges leniency from the side of creditors when the debtor is in financial difficulty.[17] Allah (*swt*) said:

وَاِنْ كَانَ ذُوْ عُسْرَةٍ فَنَظِرَةٌ اِلٰى مَيْسَرَةٍ ۗ وَاَنْ تَصَدَّقُوْا خَيْرٌ لَّكُمْ اِنْ كُنْتُمْ تَعْلَمُوْنَ ﴿٢٨٠﴾

"*If the debtor is in difficulty, grant him time till it is easy for him to repay. But if ye remit it by way of charity, that is the best for you if ye only knew".*

(Surah al-Baqarah, 2: 280)

It is evident that Allah (*swt*) encourages empathy over debtors unable to pay their debts. The creditor must be willing to grant an extension of the time limit for the debtor to settle the debt, or they even can cancel the debt. It is argued that debt rescheduling is compulsory when the debtor is in difficulty and there can be no increase in the amount due.[18] Accordingly, whoever lends a person and relieves him of his distress by delaying payment, pardoning some money, or forgiving it completely, will have a great reward.

The aforementioned obligations imposed on the lender are very important to maintain trust between the two contracting parties and ensure that the lender will not take advantage of the dire need of the desperate borrower.

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[16] Zairani Zainol, Aini Nur Hajjar Khairol Nizam and Rosemaliza Ab Rashid, "Exploring the Concept of Debt from the Perspective of the Objectives of the Shariah," *International Journal of Economics and Financial Issues*, vol. 6/7 Special Issue (2016): 304-312.

[17] Rusni Hassan, Ahmad Azam Othman and Syuhaeda Aeni Binti Mat Ali, "Procedural Laws Governing Event of Default in Islamic Financing in Malaysia: Issues and Challenges," *Emerging Issues in Islamic Finance Law and Practice in Malaysia*, (2019): 193–207, https://doi.org/10.1108/978-1-78973-545-120191017.

[18] Hafas Furqani et al., "Debt from Shariah and Economic Perspectives: Concepts, Issues and Implications," *ISRA Research Paper*, vol. 81 (2015): 48.

2. Debt Taking

Debt, in the perspective of Islamic law, is an activity carried out by humans in the course of achieving the benefit of life so that it prospers in the world and the hereafter, therefore in its economic activities, humans must follow the rules of Islamic principles.[19] Islam allows taking debt because it brings benefits to individuals and facilitates the satisfaction of their needs. However, it should be incurred according to the individual's needs and not for acquiring luxury without considering the potential adverse effects. Although Islam considers indebtedness permissible, it is adamant when it comes to motivating believers to avoid debt and value a debt-free life.[20] Although debt is allowed, *Sharī'ah* imposes some conditions on Muslims to protect and preserve relations between them.[21]

True believers in God must write their debt agreement even if the parties have already agreed on all the terms and conditions. As neither the lender nor the borrower knows what will happen in the future, it is very important to document the agreement. According to the aforementioned verse (Al-Baqarah, 2:282), a few requirements must be met when it comes to debt transactions. These requirements include written documentation as well as the presence of a witness during the transaction. Contract documentation and the presence of witnesses are important to mitigate any future disputes that may arise in connection with the debt contract, as in many cases, debt leads to lies and the breach of promises. A pious Muslim is expected to take only necessary loans with the good intention of repaying; as Abū Hurayrah narrated, the Prophet (*pbuh*) said:

مَنْ أَخَذَ أَمْوَالَ النَّاسِ يُرِيدُ أَدَاءَهَا أَدَّى اللَّهُ عَنْهُ، وَمَنْ أَخَذَ يُرِيدُ إِتْلاَفَهَا أَتْلَفَهُ اللَّهُ

[19] Djubaedi Yunus and JM Muslimin, "Debt in the Perspective of Islamic Law," *Jurnal Syarikah: Jurnal Ekonomi Islam*, vol. 6/1 (2020): 22, https://doi.org/10.30997/jsei.v6i1.2187.

[20] Mohammad Omar Farooq, "Islamic Finance and Debt Culture: Treading the Conventional Path?," *International Journal of Social Economics*, vol. 42/12 (2015): 30, https://doi.org/http://dx.doi.org/10.1108/03068299710193624.

[21] Mohammad Firdaus and Mohammad Hatta, "Examining the Dominance of Islamic Debt-Based Products in the Economy," *International Journal of Arts and Commerce*, vol. 3/6 (2014): 51–68.

> "*Whoever takes the money of the people with the intention of repaying it, Allah will repay it on his behalf, and whoever takes it in order to spoil it, then Allah will spoil him".*[22]

The Hadith highlights the importance of the intention to repay in time and in full. It also warns against acquiring debt that one does not have the means or intention to repay. We can also understand from the Hadith that the Prophet (*pbuh*) emphasizes that those who incur debts with the intention of repaying, Allah (*swt*) will give them the means to repay. Debt is considered an *Amānah*, and Allah (*swt*) highlights its importance in the following verse:

وَٱلَّذِينَ هُمْ لِأَمَٰنَٰتِهِمْ وَعَهْدِهِمْ رَٰعُونَ ﴿٨﴾

> "*Those who are faithfully true to their Amānah (all the duties which Allah has ordained, honesty, moral responsibility and trusts etc.) and to their covenants".*

(Surah al-Mū'minūn, 23: 8)

Additionally, the main requirement of justice imposed on the debtor is the obligation to settle the debt. The debtor must make every effort to repay his debt. In fact, Islam regards the non-payment of the debt as a breach of a contractual obligation and considers it a sin. Allah (*swt)* said:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓا۟ أَوْفُوا۟ بِٱلْعُقُودِ ﴿١﴾

> "*O! You who believe, fulfil the contracts".*

(Surah al-Mā'idah, 5: 1)

Moreover, freedom from debt was one of the things the Prophet Muhammad (*pbuh*) used to mention in his supplication regularly. Anas bin Mālik narrated that he heard the Prophet Muhammad (*pbuh*) saying repeatedly:

اللّهُمَّ إِنِّي أَعْوذُ بِكَ مِنَ الهَمِّ والْحُزْنِ، والعَجْزِ والكَسَلِ والبُخْلِ والجُبْنِ، وضَلْعِ الدَّيْنِ وغَلَبَةِ الرِّجال

> "*O Allah, I seek refuge in you from grief and sadness, from weakness and from laziness, from miserliness and from*

[22] Muḥammad bin Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, (Dimashq: Dār Ibn Kathīr, 2002), 574, Kitāb al-Istiqrād wa Adā' al-Duyūn, 'Bāb Man Akhadha Amwāl al-Nās Yurīdu Adā'ahā aw Itlāfahā,' *ḥadīth* no. 2387.

cowardice, from being overcome by debt and overpowered by men (i.e. others)".[23]

This supplication of the Prophet should be taken seriously because it reflects his values and preferences. His teachings shed further light on the ethical implications of the culture of debt, where people make themselves vulnerable to its burden. Furthermore, the history of debt at the time of the Prophet (*pbuh*) is evident in various hadiths related to debt. The Prophet (*pbuh*) himself also acquired debt to meet his needs. In Hadith by Jābir bin 'Abd Allāh, he says:

أَتَيْتُ النَّبِيَّ صلى الله عليه وسلم وَهْوَ فِي الْمَسْجِدِ فَقَالَ " صَلِّ رَكْعَتَيْنِ ".
وَكَانَ لِي عَلَيْهِ دَيْنٌ فَقَضَانِي وَزَادَنِي

"*I went to the Prophet (pbuh) while he was in the Mosque. After the Prophet (pbuh) told me to pray two raka'āt, he repaid me the debt he owed me and gave me an extra amount".*[24]

Accordingly, Abū Rafī' narrated on the return of a camel borrowed by the Prophet (*pbuh*). Abū Rafī' reported that Allah's Messenger (*pbuh*) took from a man as a loan a young camel. Then several donated camels were brought to him. He ordered Abū Rafī' to return to that person the young camel (as a return of the loan). Abū Rafī' returned [it] to him and said: I did not find among them but better camels above the age of six. He (the Prophet Muhammad *pbuh*) said: "Give that to him, for the best men are those who are best in paying off the debt". (Al-Nawawī). We can understand from these three situations that it is recommended that the debtors pay back their debts in the best possible manner and that even an increase in the initial amount is desirable as long as the creditor did not stipulate it.

In another hadith narrated by Abū Hurayrah, a man demanded his debts from Allah's Messenger (*pbuh*) in such a rude manner that the companions of the Prophet intended to harm him, but the Prophet (*pbuh*) said:

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23 Muḥammad bin Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, (Dimashq: Dār Ibn Kathīr, 2002), 814, Kitāb al-Jihād wa al-Siyar, 'Bāb Man Ghazā bi Ṣabiy li al-Khidmah,' *ḥadīth* no. 2893.

24 Muḥammad bin Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, (Dimashq: Dār Ibn Kathīr, 2002), 119, Kitāb al-Ṣalāh, 'Bāb al-Ṣalāh Idhā Qadima min Safar,' *ḥadīth* no. 443.

دَعُوهُ، فَإِنَّ لِصَاحِبِ الْحَقِّ مَقَالاً. وَاشْتَرُوا لَهُ بَعِيرًا، فَأَعْطُوهُ إِيَّاهُ ". وَقَالُوا لاَ نَجِدُ إِلاَّ أَفْضَلَ مِنْ سِنِّهِ. قَالَ " اشْتَرُوهُ فَأَعْطُوهُ إِيَّاهُ، فَإِنَّ خَيْرَكُمْ أَحْسَنُكُمْ قَضَاءً

"*Leave him, no doubt, for he (the creditor) has the right to demand it (harshly). Buy a camel and give it to him." They said, "The camel that is available is older than the camel he demands." The Prophet (pbuh) said, "Buy it and give it to him, for the best among you are those who repay their debts handsomely".*[25]

It is said that debt is a source of depression at night and humiliation during the day. In addition, debt is not only a source of anxiety and insecurity for the borrower but also affects the borrower's behavior and morality. Knowing its impact and pressure on the well-intentioned Muslim, the Messenger (*pbuh*) encouraged Muslims to help debtors in obedience to God and aspiration of reward from him.

Moreover, failing to pay off a debt is a serious sin. It can even affect the soul of the debtor after his death as he remains indebted to the lender even in the Hereafter. The debt burden could later affect the heirs of the deceased debtor, as it reduces the wealth they can inherit. The Prophet (*pbuh*) reminded Muslims on several occasions of the seriousness of the debt, which remains unpaid when due. Given that a debtor tends to become a liar and breaches promises to avoid the lender's anger and the consequences of low credibility. Thus, to ensure a serious settlement commitment, a more severe consequence awaits the soul of a deceased debtor. Abū Hurayrah reported that the Messenger of Allah (*swt*) said:

نَفْسُ اَلْمُؤْمِنِ مُعَلَّقَةٌ بِدَيْنِهِ, حَتَّى يُقْضَى عَنْهُ

"*The soul of a believer remains suspended by his debt until it is paid".*[26]

Accordingly, the Prophet (*pbuh*) was asked: "O Messenger of Allah, what is this strict issue that has been revealed?" He (*pbuh*) said:

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[25] Muḥammad bin Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Dimashq: Dār Ibn Kathīr, 2002), 633, Kitāb al-Hibah wa Faḍluhā wa al-Taḥrīḍ 'Alayhā, 'Bāb al-Hibah al-Maqbūḍah wa Ghayr al-Maqbūḍah wa al-Maqsūmah wa Ghayr al-Maqsūmah,' *ḥadīth* no. 2606.

[26] Muḥammad Ibn Yazīd Ibn Mājah, Al-Sunan al-Kubrā, vol. 2, (Cairo: Dār Ta'sīl, 2014), 499, 'Bāb al-Tashdīd fī al-Dayn,' *ḥadīth* no. 2419.

وَالَّذِي نَفْسِي بِيَدِهِ لَوْ أَنَّ رَجُلاً قُتِلَ فِي سَبِيلِ اللَّهِ ثُمَّ أُحْيِيَ ثُمَّ قُتِلَ ثُمَّ أُحْيِيَ ثُمَّ قُتِلَ وَعَلَيْهِ دَيْنٌ مَا دَخَلَ الْجَنَّةَ حَتَّى يُقْضَى عَنْهُ دَيْنُهُ

"*By the One in Whose hand is my soul, if a man were killed in the battle for the sake of Allah, then brought back to life, then killed and brought back to life again, then killed, and he owed a debt, he would not enter Paradise until his debt was paid off".*[27]

Prophet Muhammad (*pbuh*) further stated:

مَنْ مَاتَ وَهُوَ بَرِيءٌ مِنْ ثَلَاثٍ الْكِبْرِ وَالْغُلُولِ وَالدَّيْنِ دَخَلَ الْجَنَّةَ

"*Whoever dies free of three things; arrogance, cheating and debt will enter Heaven".*[28]

The above hadiths indicate Islam's clear stance towards the heavy burden of debt and the importance of settling down on time. However, Islam has provided some instruments and teachings to assist those genuinely burdened by debt.

Debt payment is so important in Islam that it should be settled even after the debtor's death. It is usually paid off by relatives whom the debtor has left behind. It has been reported that the Prophet Mohammad (*pbuh*) refrained from offering the funeral prayer for a deceased person with lingering debts. Abū Hurayrah narrates that the Messenger of God often received the coffin of a man who died without paying their debts. The Prophet (*pbuh*) asked: "Did he leave anything to pay his debts?" If the answer was yes, the Prophet (*pbuh*) would pray for the body, and if the answer was no, he would say: "Pray for your friend". This shows the degree of the burden resulting from the use of debt and therefore warns against indebtedness except in cases of absolute necessity. Therefore, the debt should only be incurred if necessary, and the debtor should strive to repay it.

In this regard, the hierarchy of needs identified by al-Ghazālī from the perspective of *maqāṣid al-Sharī'ah* should serve as a guide on the

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[27] Aḥmad bin 'Alī al-Nasā'ī, *Ṣaḥīḥ Sunan al-Nasā'ī*, vol. 3 (Riyāḍ: Maktabah al-Ma'ārif ,1998), 259, Kitāb al-Buyū', 'Bāb al-Taghlīẓu fī al-Dayn,' *ḥadīth* no. 4698.

[28] Muḥammad bin 'Īsā al-Tirmidhī, *Ṣaḥīḥ Sunan al-Tirmidhī*, vol. 2 (Riyāḍ: Maktabah al-Ma'ārif, 2000), 259, Kitāb al-Ssiyar 'an Rasūl Allāh, 'Bāb Ma Jā'a fī al-Ghulūl,' *ḥadīth* no. 1572.

advisability of contracting debts. If the individual's need is at the essential level (*ḍarūriyyāt*) and there is no other way to meet it except through indebtedness, doing so is compulsory. Taking debt by legal means to finance additional needs (*ḥājiyyāt*) or embellishments (*taḥsīniyyāt*) requires considering an individual's ability to repay. If they think they can pay down the debt, there is no harm in taking the debt. However, if someone knows, based on their current situation, that they will not be able to pay, the general rule is that it is disliked incurring such a debt. Some researchers consider it even prohibited (*Haram*).[29] Accordingly, other researchers believe that debt culture should be avoided as Islam encourages people to live a moderate life and prioritizes the attitude of *qanāʻah*.[30]

The need to go into debt to meet the basic needs of life is one way to achieve the goals of *Sharīʻah* as it aims to maintain interest. Individuals should refer to the level of needs stated in the *Sharīʻah* objectives when deciding to go into debt. Researchers found that based on *Sharīʻah* objectives, the rules for incurring debt differ depending on specific circumstances. They argued that debt should only be contracted in case of necessity (*ḍarūriyyāt*), where the absence of debt could harm the person in need. In general, the acquisition of debt for additional benefits (*ḥājiyyāt*) and embellishments (*taḥsīniyyāt*) is considered permissible by *Sharīʻah* but not encouraged.[31]

Based on the literature, the researchers have identified a lack of studies addressing household over-indebtedness from an Islamic perspective.

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[29] Hafas Furqani et al., "Debt from Shariah and Economic Perspectives: Concepts, Issues and Implications," 48.

[30] Djubaedi Yunus and JM Muslimin, "Debt in the Perspective of Islamic Law."

[31] Asyraf Wajdi Dusuki and Said Bouheraoua, "The Framework of Maqasid al-Shariʿah and Its Implication For Islamic Finance," *Islam and Civilisational Renewal*, (2005): 316-336; Muhammad Iqbal Fasa et al., "Controversy on Riba Prohibition: Maqashid Shariah Perspective," *International Journal of Islamic Economics*, (2016): 1–23; Mohamad Akram Laldin and Furqani Hafas, "The Foundation of Islamic Finance and the Maqasid al-Shari'ah Requirement," *Journal of Islamic Finance*, vol. 2/1 (2013): 31–37; Fadillah Mansor, Ahmad Naim Abdullah and Zairani Zainol, "Exploring the Concept of Financial Planning from the Perspective of Maqāṣid al-Sharīʿah," *TAFHIM: IKIM Journal of Islam and the Contemporary World*, vol. 15/2 (2022): 1–35, https://doi.org/10.56389/tafhim.vol15no2.2.

RESEARCH METHODOLOGY

This study employs a qualitative research method incorporating primary and secondary data sources. The primary data was gathered through semi-structured interviews with academic experts and practitioners. The secondary data was obtained mainly through consulting Quranic verses and Prophet sayings to gain a deeper understanding of debt from a *Sharī'ah* perspective. The Quranic verses cited in this paper are based on the translation by Dr Mustafa Khattab.[32] Additionally, the researchers conducted desk research, which involved reviewing written literature on the subject to derive conclusions.

To enhance the quality of the secondary data and meet the research objectives, it is crucial to conduct semi-structured interviews with knowledgeable respondents with a strong background in *Sharī'ah*. This study utilizes semi-structured interviews to allow the interviewees to express their opinions freely on the issues being investigated.[33] To obtain valuable insights, this study conducted seven interviews with *Sharī'ah* scholars and experts who deeply understand indebtedness in Malaysia. These interviews were held between August and December 2021 with researchers, heads, and members of *Sharī'ah* committees from various Islamic financial institutions in Malaysia.

Respondents were presented with several questions aimed at investigating the issue of over-indebtedness from the Islamic perspective. The data analysis technique used is thematic analysis, as it is widely deployed and known for its flexibility.[34] The theme of the study and the interviews questions are shown in the table below:

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[32] Mustafa Khattab, *The Clear Quran: A Thematic English Translation* (Cairo, Egypt: Dar al-Salaam, 2015).

[33] Joanne Horton, Richard Macve and Geert Struyven, 'Qualitative Research: Experiences in Using Semi-Structured Interviews,' In *The Real Life Guide to Accounting Research*, ed. Christopher Humphrey and Bill Lee (Elsevier, 2004), https://doi.org/10.1016/b978-008043972-3/50017-7.

[34] Virginia Braun and Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology*, vol. 3/2 (2006): 77–101, https://doi.org/10.1191/1478088706qp063oa.

Table 1: Categorical Theme and Interview Questions

Research Objective	Categorical Theme	Interview Questions
To explore the issue of over-indebtedness from the Islamic perspective.	Debt from a *Sharī'ah* perspective	What is the concept of debt in *Sharī'ah*?
		What is the position of *Sharī'ah* regarding high debt levels?
		Can debt become prohibited at certain levels?
		What is the position of *Sharī'ah* vis-à-vis debt in each situation of the hierarchy of needs in Islam?
	Solutions offered by *Sharī'ah* to over-indebted households	What are the solutions offered by *Sharī'ah* to over-indebted households?

Source: Authors' own

FINDINGS AND DISCUSSION

1. Debt From a *Sharī'ah* Perspective

The current theme focuses on four questions where our respondents were asked about the *Sharī'ah* perspective on debt. The discussion on this topic began with a question about (a) the concept of debt in *Sharī'ah*, followed by (b) the position of *Sharī'ah* regarding high levels of debt. The researchers also asked (c) whether debt can become prohibited at certain levels and finally (d) the position of *Sharī'ah* towards debt in each situation of the hierarchy of needs in Islam.

a) The Concept of Debt in *Sharī'ah*

Starting with the concept of debt in *Sharī'ah*, respondents unanimously agreed that debt in *Sharī'ah* is considered a liability for the debtor, regardless of whether it comes from a *Qarḍ* or other transactions. Here are some of the responses to the first question that were generated from the interviews:

> *"Debt can be created based on Dayn or based on Qarḍ. Dayn refers to buying something (a good or service) on credit so that you pay the price later. Whereas Qarḍ is the one which*

involves taking money against future repayments of the same amount." (I1)

"Debt or Dayn is the right to obligation or responsibility to another person. We can cover debts arising from civil obligations or criminal or prudent nature. It can also arise from civil contracts, such as marriage or mu'āmalāt, or other obligations, such as compensation for damages. In the case of diyyah, for example, therefore it is a rather broad concept. Even in mu'āmalāt itself, the right to responsibility for another person, can be obligatory (i.e., Bay' mū'ajjal or Bay' bi al-taqsīṭ)." (I2)

"Debt in Sharī'ah refers to the word "Dayn" which has the same root as the word Dīn (religion). Technically, debt is defined as the establishment of an obligation as a liability." (I3)

"Dayn is a very neutral concept, but it can be understood as a financial obligation of a person which a lender can request. It can result from a commercial transaction or money lending (interest-free loan). The payments related to this type of financial obligation are linked to the agreement between the two parties." (I4)

"Debt is a generous contract of the creditor towards someone who is in need (the debtor). On the side of the debtor, there is an obligation to pay the debt." (I5)

"According to Sharī'ah, the debt must not have any personal gain on interest, but it is given out of a pure heart and the sole intention to please Allah and for the sake of doing good deeds to another human being." (I7)

Based on the responses provided by the interviewees, a comprehensive definition of indebtedness from an Islamic perspective can be formulated. Indebtedness, in the context of *Sharī'ah*, is universally acknowledged by the respondents as a financial liability imposed upon the debtor, irrespective of whether it arises from a *Qarḍ* (interest-free loan) or other forms of transactions. The concept of debt, referred to as "Dayn," encompasses various aspects and can be categorized as an obligation or responsibility towards another individual. It encompasses obligations arising from civil contracts, such as marriage or *mu'āmalāt* (commercial transactions), as well as compensation for damages resulting from civil or criminal acts. Dayn is considered a neutral concept, representing a financial

obligation that can be claimed by a lender based on a mutual agreement between the parties involved. Importantly, from the Islamic perspective, a debt must be devoid of any personal gain through interest; rather, it should be offered with a generous spirit and the intention to please Allah and perform virtuous deeds for the benefit of others. The definitions put forward by our respondents support the previously discussed definitions, the opinions of scholars and the sayings of the prophets on debt from a *Sharī'ah* perspective.[35] When it comes to the position of *Sharī'ah* regarding high debt levels, our respondents agreed that debt is permissible by the *Sharī'ah* if it is taken for *Sharī'ah*-compliant purposes and with the intention to payback.

b) *Sharī'ah*'s Position Regarding High Debt Levels

When it comes to the position of *Sharī'ah* regarding high debt levels, respondents agreed that it is not recommended to get into heavy debt, especially to buy unnecessary things. Here are some of the responses to the second question that were generated from the interviews:

> *"Sharī'ah warned us against over-indebtedness but did not prohibit debt as Allah (swt) allows us to make transactions based on debt. The longest verse in the Quran (chapter 2, verse 282) is about debt. The whole content of this verse is about transactions based on debts and how to secure each party's rights using writing and witness to secure it. So, based on this verse, we know that there is no prohibition of doing transactions based on debts in Sharī'ah. But what is important is to secure the debt. Being in debt is not prohibited in Sharī'ah, but Sharī'ah does not encourage over-indebtedness. Things that are unnecessary should not be achieved based on debt." (I1)*
>
> *"Debt, in general, is allowed by Islamic law because if you look at the practice of the Prophet (pbuh), we have seen in the Sunnah that the Prophet (pbuh) had also in the past incurred some debts. It is, therefore, something that is permitted. When it comes to high debt levels or over-indebtedness, the Prophet (pbuh) used to take refuge from "Ghalabah al-Dayn". The*

[35] AAOIFI, *Shari'ah Standards*; Wahbah al-Zuhaily, *Financial Transactions in Islamic Jurisprudence*; Hafas Furqani et al., "Debt from Shariah and Economic Perspectives: Concepts, Issues and Implications."; Zairani Zainol, Aini Nur Hajjar Khairol Nizam and Rosemaliza Ab Rashid, "Exploring the Concept of Debt from the Perspective of the Objectives of the Shariah."

concept of a Ghalabah al-Dayn is when the debt becomes too overwhelming that the debtor cannot repay. Another concept we should be aware of is delinquency or intentional avoidance of debt payment. Intentional avoidance of debt payment is something Sharī'ah abhorred. The Prophet (pbuh) said that if a person is in debt with the intention of paying the debt, then Allah will make his way easier to pay the debt. But if a person is in debt and intends not to pay back, Allah will make it difficult for him." (I2)

"Taking a debt is permissible in Sharī'ah up to the level that it only serves the necessity level and the need levels of the objectives of Sharī'ah, to serve the livelihood and likelihood of people, but not to the extent that it is excessive." (I3)

"In Sharī'ah is permitted to be indebted. This is from the side of the borrower. While from the side of the lender, it is encouraged to extend a loan. Qarḍ is more encouraged, and knowing that Qarḍ is the creation of debt, therefore, Sharī'ah allows debt. From the borrower's perspective, it depends on the situation when it comes to Sharī'ah. Debt itself is not an issue as Prophet (pbuh) encouraged Bay' mū'ajjal, and he was indebted. He got indebted even to non-Muslims. The issue is the high indebtedness and converting the debt into a behaviour or being careless about indebtedness or more precisely the shifting of business today from Qarḍ al-Ḥasan to Bay' mū'ajjal. I can give the example of Muʿādh Ibn Jabal, since Sharī'ah imposes certain restrictions on people who cannot manage their financial affairs properly and could go into debt without proper justification. Muʿādh Ibn Jabal used to give charity at a very high level. He used to give Ṣadaqah to the extent that he takes a debt to give Ṣadaqah. His indebtedness an to increase to the level that Prophet (pbuh), after complaints from creditors, made a a financial restriction on his assets and was declared bankrupt. The Prophet (pbuh) auctioned and sold all his possessions and paid all his creditors. It is Muʿādh Ibn Jabal who is described by the Prophet (pbuh) as the most knowledgeable about halal and haram, and he was one of the main scholars during the time of the Prophet (pbuh). But when he exceeds the ratios and starts borrowing money without proper justification and when the level of debt starts to spiral out of control, the Prophet (pbuh) stepped in as a judge. This means that in Sharī'ah terms, it is

> *not advisable to go in this direction, especially without solid justification." (I4)*
>
> *"The Prophet (pbuh) mentioned the obligation to pay the debt (even those who are dead and have an unpaid debt will not enter heaven until they have repaid). This explains the crucial importance of debt repayment. This means we need to monitor and control our leverage behavior. Going into excessive debt (beyond one's means) is inadvisable from a Sharī'ah point of view." (I5)*
>
> *"I believe that debt must be avoided. This does not mean that it is something that is prohibited at all. But excessive indebtedness usually brings harm and difficulty to the debtor." (I6)*
>
> *"A person should avoid incurring excessive debts that could cause harm in the future. I believe that high debt levels are considered as the state of taking a burden or liability that is beyond one's capacity to handle. From the Sharī'ah point of view, this debt either falls under the makruh or haram situation. This is because it will affect the capability of the creditor to repay the debts and will also lead to a financial crisis. This situation can also bring grief and humiliation." (I7)*

The interviewees' responses shed light on *Sharī'ah*'s position concerning high debt levels and over-indebtedness. Firstly, the respondents unanimously agree that debt transactions are permissible in *Sharī'ah*. However, cautionary advice is given against over-indulging in debt, and strongly emphasises responsible debt management. Secondly, the interviewees highlight the discouragement of acquiring excessive debt, particularly for unnecessary purposes, within the framework of *Sharī'ah*. Such elevated levels of indebtedness are viewed as burdensome and potentially detrimental to the debtor. Thirdly, the practices and teachings of the Prophet Muhammad (*pbuh*) serve as a guiding influence in assessing the Islamic perspective on debt. The Prophet's examples of incurring debt and seeking refuge from overwhelming debt (known as "*Ghalabah al-Dayn*") underscore the significance of prudently managing debt. Furthermore, the intentional evasion of debt repayment is strongly condemned, while sincere intentions to fulfil debt obligations are encouraged and believed to receive divine assistance. Fourthly, *Sharī'ah* permits debt within the bounds of necessity, fulfilling individuals' livelihood and essential needs. However, it is crucial to exercise

moderation and refrain from excessive or unmanageable levels of indebtedness. Lastly, the obligation to repay debt is emphasized in Islamic teachings, with a notable mention that debt obligations persist even after the debtor's demise. Excessive indebtedness can lead to dire consequences such as financial crises, emotional distress, and social humiliation, while hampering the debtor's ability to meet repayment obligations.

The thematic analysis underscores the importance of responsible debt management in *Sharī'ah*. While *Sharī'ah* permits debt transactions, Muslims are advised to exercise caution and prudence, avoiding excessive indebtedness that could lead to financial hardships and the inability to fulfil repayment obligations. These findings align with existing scholarly research emphasizing the necessity for careful consideration and a thoughtful approach to debt acquisition in the realm of Islamic finance.[36]

c) Debt Taking Prohibition

Muslims must be very careful before getting into indebtedness as the liability of debt follows the debtor even after his death, as our Prophet (*pbuh*) narrates. Regarding the third question of this theme, researchers agree that debt could become prohibited at certain levels and under certain circumstances. Regarding the third question of this theme, researchers agree that debt could become prohibited at certain levels and under certain circumstances. Here are some of the responses that were generated from the interviews:

> *"Sharī'ah always looks at people's intentions. If you incur a debt with the intention of paying it back, Sharī'ah does not prohibit you from incurring it. But if you take it with no intention of paying back, it's haram. The Prophet (pbuh) bought food on credit from a Jewish and he gave his Armor shirt as a mortgage. The Prophet (pbuh) did not repay until his death, but the Armor shirt covers more than it should. This means that for basic human needs, Sharī'ah does not prohibit us from getting into debt because it is a means of survival." (I1)*

[36] Mohammad Firdaus and Mohammad Hatta, "Examining the Dominance of Islamic Debt-Based Products in the Economy."; Hafas Furqani et al., "Debt from Shariah and Economic Perspectives: Concepts, Issues and Implications."; Zairani Zainol, Aini Nur Hajjar Khairol Nizam and Rosemaliza Ab Rashid, "Exploring the Concept of Debt from the Perspective of the Objectives of the Shariah."

> *"It is clear that taking a debt with the intention of not paying is prohibited" (I2)*
>
> *"Sharī'ah scholars are basically in agreement that extending debt is extending in Islam based on multiple verses of the Quran, teachings, and tradition of the Prophet (pbuh). It is also permissible based on assisting other people who need liquidity. In some circumstances extending debt is not only permissible or encouraged, but it is an obligation to extend loans, especially to those who are in genuine difficulty. In the situation where the extension of the debt which exceeds the capacity of the debtor and not for the purpose of meeting his needs, may be impermissible (Haram). Even in our Sharī'ah committee discussion, when we want to provide a credit card facility, we have this setting to make sure that we don't extend the credit card to the customer beyond the level of their capacity on the basis of "Sad al-Dharī'ah", so that they will not be trapped in a high level of indebtedness." (I3)*
>
> *"Getting into high levels of debt is definitely not encouraged, it is not recommended. It could depend on the level of indebtedness, Makruh, or even it can be in the level of Haram. If the individual drives himself to a high level of debt that may lead him to bankruptcy and to lose his assets and even impact his family". (I4)*
>
> *"There's no issue if the debt is created from a Sharī'ah-compliant contract. However, what is not allowed is excessive debt. What is discouraged is to do everything based on debt." (I6)*
>
> *"Islam encourages Muslims to give debt to those in need. Historically debt has been there since the existence of humankind. In short, debt, in general, is allowed in Islam but also seriously cautions about the harmful consequences of debt". (I7)*

The responses provided by interviewees reveal significant insights regarding the Islamic perspective on indebtedness. Firstly, the liability of debt is considered to persist even after the debtor's death. This highlights the enduring nature of debt obligations in Islam and emphasizes the importance of careful consideration before entering indebtedness. Secondly, the researchers concur that debt can be prohibited under specific circumstances and at certain levels. It is emphasized that the intentions behind incurring debt play a crucial role. If the intention is to repay the

debt, *Sharī'ah* does not prohibit it. However, taking on debt without intention of repayment is deemed Haram (prohibited). The example of the Prophet Muhammad (*pbuh*) acquiring food on credit and offering his Armor shirt as collateral illustrates the permissibility of debt for basic human needs. Thirdly, *Sharī'ah* scholars agree that extending debt is generally permissible and even encouraged in Islam, as evidenced by various Quranic verses, teachings, and the tradition of the Prophet (*pbuh*). Extending loans to assist those in genuine financial difficulties is considered an obligation in certain circumstances. However, entering into high levels of debt is generally discouraged and not recommended. Depending on the level of indebtedness, it may be deemed Makruh (disliked) or even Haram. Excessive debt that leads to bankruptcy, loss of assets, and negative impacts on the debtor's family is cautioned against. If the debt extension exceeds the debtor's capacity and is not for meeting genuine needs, it may be considered impermissible (Haram). Lastly, the respondents agree that while debt created from *Sharī'ah*-compliant contracts is permissible, excessive indebtedness and conducting all transactions solely based on debt are not encouraged.

Overall, the viewpoints expressed by the interviewees indicate a range of perspectives on the permissibility and recommendations regarding debt in Islam. Depending on the circumstances and the level of indebtedness, debt can be considered mandatory, recommended, neutrally permissible, disliked, or even prohibited. These findings align with previous research, highlighting the nuanced nature of Islamic teachings on debt and the need for thoughtful consideration of individual situations.[37]

d) Debt and The Hierarchy of Needs in Islam

Regarding *Sharī'ah*'s view towards debt in each situation of the hierarchy of needs in Islam, respondents had different opinions. Some of them see that it is not encouraged to go into excessive debt to buy *ḥājiyyāt* and *taḥsīniyyāt*, while others see no harm if the individual intends and can pay back. Here are some of the responses to the first question that were generated from the interviews:

> *"If we want to go through the approach of ḍarūriyyāt, ḥājiyyāt and taḥsīniyyāt, I think it might not be very accurate. The reason is that there are certain things that scholars of*

[37] Hafas Furqani et al., "Debt from Shariah and Economic Perspectives: Concepts, Issues and Implications."; Mohamad Akram Laldin and Furqani Hafas, "The Foundation of Islamic Finance and the Maqasid al-Shari'ah Requirement."

Maqāṣid Sharī'ah classify as taḥsīniyyāt, and yet these things are part of basic humanity. Imām al-Shāṭibī categorized Sutra under taḥsīniyyāt. Will you tell me that covering your body is not a basic human need? It is. But here, he classified it under the category of taḥsīniyyāt. So, if you want to use this approach of ḍarūriyyāt, ḥājiyyāt, and taḥsīniyyāt, you might miss it when it comes to debt, so the best way is to identify what Islam considers basic human needs. The Prophet (pbuh) in one of the Hadith said, "anyone that we have offered a job, and we pay him for that job, he should get married if he's not yet married". Then he said, "then he should have a house if he doesn't have a house". Meaning that having a wife is a basic human need because Allah (swt) created us to reproduce. It's almost compulsory to have a wife. If a person is healthy. Then having a house is compulsory. Having something to eat is a basic human need. Therefore Allah (swt) started with fuqarā' and masākin among those who deserve zakat. In another Hadith, the Prophet (pbuh) said, "he should also have something to ride if he has no animal to ride." (I1)

"Even the taḥsīniyyāt are still a kind of al-Maṣlaḥah. ḥājiyyāt is to allow you to do something pleasantly and comfortably, while taḥsīniyyāt should not be assimilated to waste. taḥsīniyyāt is still part of the level of comfort that is still recognized, and I don't think it is forbidden to have a debt to provide that kind of comfort. For example, having a basic house is a ḍarūriyyāt, having running water is ḍarūriyyāt, maybe having electricity is ḥājiyyāt, but having fans and air conditioning is taḥsīniyyāt. I don't think it's wrong to have this kind of stuff based on debt, provided you intend to pay." (I2)

"Low and medium levels of indebtedness, as long as it is meant to meet basic needs, is permissible. taḥsīniyyāt, to a certain extent, is permitted. But for me, excessive indebtedness is beyond taḥsīniyyāt and already reaches this level of extravagance because if it is taḥsīniyyāt, it is always governed by Sharī'ah because it is intended to serve the best practices and the perfection of life. But for me, over-indebtedness is no longer about having perfection, but it is beyond that. It reaches the level to show that one is richer than others with extravagant consumerism." (I3)

"From a Sharī'ah standpoint, the borrower must monitor and assess the reason for his indebtedness, whether in the level of

> *ḥājiyyāt, taḥsīniyyāt or ḍarūriyyāt. Based on that, he will determine his actions. The prohibition might apply when the borrower tries to burse the thresholds defined by the authorities to buy ḥājiyyāt, although ḥājiyyāt are needed but he still must monitor his financial obligations. It may reach the level of Haram, in case he burses the financial ratios and puts himself at high risk of purchasing luxuries and other things that are not regarded as ḍarūriyyāt or ḥājiyyāt. Scholars did not go into details in this because it is subjective, but I believe this is reasonable because the objective is to protect the person from the negative implications of his behavior." (I4)*
>
> *"Debt is very subjective and varies from one person to another depending on their finances. What is expensive for one may not be for another. Debt may become prohibited. Even for ḍarūriyyāt, for example, performing a pilgrimage is mandatory for any Muslim, but this obligation comes with the condition of financial capacity. Some scholars allow going into debt to perform it, but some don't." (I5)*

The responses provided by interviewees provide valuable insights into the Islamic perspective on debt in relation to the hierarchy of needs. The participants expressed diverse opinions on the matter. Some interviewees suggested excessive debt to acquire non-essential items, categorized as *ḥājiyyāt* and *taḥsīniyyāt*, is discouraged. However, others argue that if the individual intends to repay the debt, there is no harm in using it to fulfil such needs. The concept of *ḍarūriyyāt*, *ḥājiyyāt*, and *taḥsīniyyāt* was also discussed, with varying interpretations. Some participants emphasized the importance of identifying basic human needs outlined in Islamic teachings, such as marriage, housing, and sustenance. They argued that incurring debt to fulfil these needs is permissible. The participants also highlighted the subjective nature of the debt, varying based on an individual's financial capacity and circumstances. It was noted that debt for performing obligatory acts, like the pilgrimage, is subject to financial capacity and may be allowed by some scholars.

In conclusion, the participants agreed that debt should serve *al-Maṣlahah* (benefit) and be undertaken to repay. However, they held different views regarding categorising needs within the hierarchy and the permissibility of debt for non-essential items. Overall, the findings support the notion that debt for acquiring additional benefits (*ḥājiyyāt*) and embellishments (*taḥsīniyyāt*) is generally considered permissible in

Sharīʿah, provided the borrower has the intention and ability to repay. However, it is cautioned that individuals who know they cannot fulfil their debt obligations should refrain from incurring debt.[38]

2. Solutions Offered by *Sharīʿah* to Over-Indebted Households

Debt is not a new concept in our modern world. Indebtedness existed even before Islam. Since Islam has come to make people's lives easier and relieve their burdens, *Sharīʿah* has few solutions to overcome the debt burden of Muslims. The current theme focuses on the solutions offered by *Sharīʿah* to over-indebted individuals and households. Respondents provided several solutions that Allah (*swt*) made available for the debtor to overcome their financial struggle. Here are some of the responses to the first question that were generated from the interviews:

> *"The problem we have today is mainly in the Islamic institutions, which are supposed to care for the underprivileged. These institutions are no longer effective. The volume of zakat in the ummah today and the potential of waqf, unclaimed money, and many other things like, al-waṣīyah are very high. These are all different ways we can use to help those who need it most, and people in debt are among those who need it most." (I1)*

> *"Allah (swt) mentioned that it is better to waive the debt or to grant a discount. A creditor can grant a partial (discount) or total waiver. This can be evidenced in the Sunnah of the Prophet (pbuh), who encouraged the companions to give discounts. Also, ḥawālah is a very important practice that was introduced by the Prophet (pbuh). This concept of transferring the liability from one person to another will help release or relieve the creditor by allowing him to obtain payment of the debt where the debt is transferred. Nowadays, we have takaful credit, and we also have the concept of a guarantee where the guarantor can repay another person's debt. We also have the*

[38] Asyraf Wajdi Dusuki and Said Bouheraoua, "The Framework of Maqasid al-Shariʿah and Its Implication For Islamic Finance."; Hafas Furqani et al., "Debt from Shariah and Economic Perspectives: Concepts, Issues and Implications."; Mohamad Akram Laldin and Furqani Hafas, "The Foundation of Islamic Finance and the Maqasid al-Shari'ah Requirement."; Zairani Zainol, Aini Nur Hajjar Khairol Nizam and Rosemaliza Ab Rashid, "Exploring the Concept of Debt from the Perspective of the Objectives of the Shariah."

concept of "Al-Rahn" to allow the creditor to collect the debt." (I2)

"The solutions that Sharī'ah provides for over-indebtedness is through ISF instruments such as zakat that is partly intended to address the issue of indebtedness. That's why one of the eligible beneficiaries for zakat is al-Ghārimīn. Even some Sharī'ah scholars agree with the view that zakat itself can be extended as a benevolent loan to address indebtedness. Another solution is by way of a moratorium. If the debtor is in genuine difficulty, then he has to be given extra time for settlement. The aspect of a moratorium, payment relief, relaxation, or even restructuring and rescheduling are solutions to assist debtors in genuine difficulties. The third solution in Sharī'ah is by way of Ibrā' or even waiver of debt as Ṣadaqah to waive the debtor's liability." (I3)

"Qarḍ al-Ḥasan is also a solution. I am talking about the indebtedness of people in mortgages, car financing, credit cards and others. In this case, Qarḍ al-Ḥasan might be a solution to reduce indebtedness. Remember that indebtedness in the regulated market of financial institutions is determined by specific amounts and schedules that are, most of the time, monthly payments. So, if the person has less income than debt, he is in a deficit position. In this case, Qarḍ al-Ḥasan can be a sort of flexible fund provided, whether by institutions, government bodies, high individual networks, syndications, or even part of the social finance to the indebted. But the point here is that if I give you a Qarḍ al-Ḥasan with a maturity of 1 year, the Qarḍ al-Ḥasan within that year will help the debtor manage his financial commitments and obligations. The other difference is that Qarḍ al-Ḥasan is a social finance instrument. Although it creates another obligation if you default on Qarḍ al-Ḥasan, it could be subject to discussions. It can be renewed, extended, etc. However, defaulting in the banking market will lead to a kind of recovery of assets or even bankruptcy. Another solution is Ṣadaqah. Ṣadaqah could be channelled to debtors to help them to manage their financial obligations. It could be in the case of gifts (al-Hibah). Why we say a gift is because Ṣadaqah is mainly for people who are in need, and Zakat for people who are eligible, but a Gift can be given to people who are in the upper classes but facing temporary financial difficulty (I'sār).

> *Another solution is Waqf which might be channelled to reduce the indebtedness of individuals." (I4)*
>
> *"There are few ways that Sharī'ah offers as solutions for indebtedness. (a) ḥawālah entails transferring debt or obligation from one debtor to another, releasing the original debtor from that debt or obligation. (b) By expanding the waqf projects, all the proceeds can be used as well to solve the indebtedness problems of those in need. A special form of waqf project can be designed to help those in serious debt. (c) al-Rahn, one can utilize their asset or any form of valuable things that can be used as a mortgage, and the Islamic pawnbroker can provide a form of financing that can help to overcome indebtedness. Then, the mortgage, after being free from the debt, can focus on work or any effort that can provide income to redeem back the al-marhūn that has been mortgaged. (d) al-kafālah, one can appoint a third party as a guarantor for the debt so that the guarantor can pay the debt on behalf of the insolvent debtor. (e) Zakat can be used to pay the debt under the category of al-Ghārimīn." (I7)*

The responses provided by interviewees shed light on the solutions provided by *Sharī'ah* for individuals and households burdened with debt. The participants acknowledged that indebtedness is not a new phenomenon, and Islam, a religion that eases people's hardships, offers various solutions to address the issue of debt. The solutions discussed by the respondents can be categorized as financial instruments, practices, and principles in accordance with *Sharī'ah*.

One key solution highlighted by the participants is the utilization of Islamic financial instruments and practices. Zakat, which is a form of wealth transfer, can be extended to assist those in debt.

Additionally, it was suggested that *Ṣadaqah* can be channeled as gifts (*al-Hibah*) to individuals facing temporary financial difficulties, even if they are not eligible for zakat. Waqf institutions were also cited as a potential source of assistance, with the suggestion of creating a cash waqf to reduce individuals' excessive indebtedness.

Moreover, the practice of granting discounts (partial or total waivers), payment relief, relaxation, restructuring, and rescheduling were mentioned as possible measures to assist debtors in managing their obligations with references to the encouragement of such practices in the Sunnah of the Prophet Muhammad (*pbuh*). Another solution discussed is the concept of a

moratorium, which entails providing additional time or relief to debtors facing genuine financial difficulties

Ḥawālah was also highlighted as an important practice. It involves the transfer of debt or obligation from one debtor to another, thereby relieving the original debtor from the burden of the debt.

Qarḍ al-Ḥasan, which refers to benevolent loans, was identified as a flexible fund that can be provided by institutions, government bodies, high-net-worth individuals or as part of social finance. It was suggested that *Qarḍ al-Ḥasan*, with a suitable maturity period, can help debtors manage their financial commitments.

In addition to the aforementioned solutions, other practices and principles were mentioned, including *al-Rahn* (Islamic pawnbroking), where assets can be used as mortgage, *al-Kafālah* (guarantorship) where a third party can guarantee the debt on behalf of the debtor, and the use of unclaimed money and various Islamic principles of wealth transfer, such as *al-Waṣīyah.*

Overall, the thematic analysis highlights the diverse range of solutions provided by *Sharī'ah* to alleviate the burden of excessive debt. These solutions encompass financial instruments, practices, and principles, including Zakat, *ḥawālah*, moratorium, *Qarḍ al-Ḥasan*, *Ṣadaqah*, Waqf, and various other forms of wealth transfer and support mechanisms. *Sharī'ah* aims to provide relief and support to individuals and households facing financial difficulties and foster a compassionate and just economic system by offering these solutions. The solutions suggested by the respondents support the solutions discussed in the literature[39], sayings of the Prophet (*pbuh*) and verses from the Quran.

It is important to consider that Islam has made these instruments available only to genuine debtors and has qualified the procrastination of debt payment by solvent debtors as injustice. Indeed, Islam distinguished

[39] Ahmed Belouafi, "Towards a Just Monetary System," *Journal of King Abdulaziz University*, vol. 2/1 (2022): 109-115, https://doi.org/10.20944/preprints202211.0483.v1; Abderrazak Belabes, "Limitations of the SDGs in the Light of a Zakat Approach in Terms of Resilience," *AZKA International Journal of Zakat & Social Finance*, vol. 3/1 (2022): 53–84, https://doi.org/10.51377/azjaf.vol3no1.94; Rusni Hassan, Ahmad Azam Othman and Syuhaeda Aeni Binti Mat Ali, "Procedural Laws Governing Event of Default in Islamic Financing in Malaysia: Issues and Challenges."

the creditor with good faith from the one in bad faith. For the former, it is possible to grant a grace period, while the latter should be penalized. Accordingly, there are two types of defaulters (a) those who are too poor to pay their debts and (b) those who can afford to repay but choose not to. As for those who can afford to repay but choose not to, they are considered guilty and legal action should be taken against them.

It is the responsibility of financially solvent people to provide loans and help those in need. However, although Islam allows its believers to provide all levels of benefits and interests for the betterment of life, it has imposed certain limitations and constraints on the use of debts to acquire luxury goods and maximise satisfaction. It is recommended that the amount of debt that a person wishes to acquire is proportional to the amount of his earned income, from which he has to repay the debt, and that he has a sufficient balance to maintain a decent lifestyle. In fact, Muslims need to plan their spending wisely to avoid unnecessary loans that could ultimately trap them in the vicious cycle of debt. Failure to do so will have a detrimental impact on their lives and may even continue after their death.

CONCLUSION

As the objective of the study consisted of exploring the issue of over-indebtedness from the Islamic perspective, this study adopted a research methodology which is qualitative in nature, in which an in-depth review of the Quran and the Prophet *(pbuh)* sayings, as well as the literature, was followed by interviews with prominent scholars in order to get more clarity on the different debt scenarios and the respective *Sharī'ah* position related to each one of them. The discussion with the experts provided a better understanding of indebtedness from a *Sharī'ah* perspective, rules governing the relationship between debtors and creditors,, and the available solutions provided by the *Sharī'ah* to assist those burdened by debt.

The study concluded that Islam teaches Muslims moderation in life and discourages them from borrowing, especially for unnecessary reasons. However, if circumstances force Muslims to borrow, they must do so after careful planning and with the full intention of paying off the debt liability. In fact, debt should be incurred according to the needs of the individual and not to acquire luxury without considering the potential adverse effects. The potential debtor needs to keep in mind that once a debt is contracted, they will remain responsible for it, even in the hereafter, until it is settled, unless the creditor forgives him.

Moreover, the research found that excessive indebtedness beyond one's capacity and indebtedness to fulfil the wants rather than the needs, should

be avoided. It could be, depending on the level of indebtedness, Makruh, or even it can be in the level of Haram. If the individual drives himself to a situation of high level of debt, that may lead him to bankruptcy and to lose his assets and even impact his family. The interviewed scholars agreed that debt should be taken to fulfil *al-Maṣlaḥah*. However, their opinion differs when it comes to the definition of the component of the hierarchy of Islam. The majority of them believe that even *taḥsīniyyāt* is for *al-Maṣlaḥah*. The researchers concluded, therefore, that incurring debt, regardless of the hierarchy of needs, should be for *Sharī'ah*-compliant purpose, to achieve *al-Maṣlahah* with a genuine intention to pay back.

Finally, the study concludes that the decision to contract a debt differs from one case to another. For some people, it is considered mandatory. For others, it is recommended. For others, it is neutrally permissible. For others, it's disliked. While in some situations, debt might also be prohibited. Debt-taking may even reach the level of Haram (prohibition) if the debtor burses the financial ratios and puts himself at high risk of purchasing luxuries and other things that are not regarded as *al-Maṣlaḥah*. Scholars did not go into detail about this because it is subjective, but the main objective is to protect the person from the negative implications of his behavior.

This study makes a valuable contribution to the literature on household over-indebtedness. Based on the findings of this study, several recommendations can be made for both households and policymakers. For households, practising effective budgeting and financial planning is crucial to avoid excessive debt. They should borrow responsibly, taking into account their financial capabilities and adhering to Islamic principles. In times of financial hardship, individuals should seek assistance from Islamic charities and institutions that can provide support and guidance.

For policymakers, it is important to support and strengthen Islamic social finance instruments, such as zakat and waqf, to address debt-related issues. Policymakers should also prioritize consumer protection and financial education to empower individuals with the necessary knowledge and skills to make informed financial decisions. Collaboration and research among policymakers, scholars, and experts in the field can further contribute to a comprehensive understanding of debt-related challenges and inform the development of effective policies and strategies. By implementing these recommendations, households can manage their debt responsibly, while policymakers can create an enabling environment that effectively supports Islamic principles and addresses debt-related concerns.

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