DOI: https://doi.org/10.18371/fp.4(44).2021.344548

JEL Classification: F390

ESSENCE AND CONTENT ANALYSIS OF KEY PROHIBITIONS IN ISLAMIC ECONOMIC DOCTRINE

YURKEVICH Oksana
Ph.D in Economics, Associate Professor,
Department of Corporate Finance and Controlling,
Kyiv National Economic University
named after Vadym Hetman
ORCID ID: https://orcid.org/0000-0002-8172-0186

Abstract. *The core of Islamic economic doctrine are religious prohibitions, which actually determine specific forms of Islamic financial relations and tools for their implementation. Such doctrinal prohibitions are riba, gharar, maisir, haram.*

According to the requirements of Islamic jurisprudence, three types of economic transactions can be modeled, two of which, according to Islamic economic doctrine, consist riba. Garar is the second important element in the system of prohibitions that determine specifics of Islamic economic doctrine. To determine the presence of gharar in a transaction, there must be not just uncertainty, but indeterminacy. Myser is completely rejected by Islam. It means income, which is not the result of invested capital or labor, but formed as a result of some accident. The category of haram operates with two concepts – positive ("allowed", halal) and negative ("forbidden", haram).

Islamic economic doctrine, as a phenomenon, that defines the principles, methods, forms and tools of economic activity in accordance with religious ethics, and Islamic finance, respectively, is a way to implement such type of financial relations to obtain a halal profit.

Key words: *Islamic economic doctrine, Islamic finance, religious ethics, Islamic economic prohibitions, riba, gharar, maisir, haram.*

The "Islamic revival" of the second half of the XX century led to emergence and institutionalization for new forms of socio-economic relations based on Islamic economic doctrine – Islamic finance, which are implemented through specific organizational forms of business or specific structured financial products / instruments. Today, the Islamic finance industry is an objective phenomenon and an integral part of the global financial system. In some Muslim countries, this type of financial relationship is of systemic importance, covering from 25 % to 40 % of the local financial sector.

At the core of Islamic economic doctrine are certain religious prohibitions, which actually determine the specifics of forms for Islamic financial relations and tools for their implementation. Doctrinal prohibitions are riba, gharar, maisir, haram.

According to the requirements of Islamic jurisprudence, three types of economic transactions can be modeled, two of which, according to Islamic economic doctrine, have a riba:

- in transactions with the sale of goods for money (in regular monetary settlements) allowed both margin (in the form of added value) and deferred payment for purchased goods;
- in transactions where the subject of exchange is homogeneous assets, for

example, money ↔ money, or goods ↔ goods, there is a riba, both in terms of margins and in terms of deferred payments;

- in transactions where the subject of exchange is non-homogeneous assets, for example, money ↔ other money (other currencies), or goods ↔ other goods, it is allowed to include added value, but it is prohibited to postpone their execution.

Gharar is the second important element in the system of prohibitions which determine the specifics of Islamic economic doctrine. To determine the presence of a gharar in a transaction, there must be not just uncertainty, but indeterminacy. It is exactly the approach, which underlies modern practice of Islamic finance. Forbidden gharar takes place when there is uncertainty about: a) the object of the agreement, b) its price.

Maisir is completely rejected by Islam. It means income, which is not the result of capital invested or labor imputed, but formed because of some sort of an accident. In order to be considered as the gambling, there must be at least three elements:

- the existence of an object / asset for bets for both sides;
- the existence of the game itself, which determines who wins and who loses;
- the "winner" receives the property (part / whole) which the bet is made, and the loser loses it.

These elements, in the context of maisir, can be used as restrictions for a large number of financial transactions and securities market instruments. These are speculative transactions, as well as derivative securities related to risk hedging.

The category of haram takes an important place in setting ground principles of Islamic ethics, which operates itself within two concepts – positive ("permitted", halal) and negative ("forbidden", haram).

Islamic economic doctrine, as a phenomenon, defines the principles, methods, forms and tools for economic activity in accordance with religious ethics, and Islamic finance, respectively, is a way for implementation such type of financial relations to obtain a halal profit.

References

1. Mozgovyy, O. Yurkevych, O. & Subochev, O. (2018). Sutnist ta rozvytok doktryny islamskykh finansiv [The essence and development of the Islamic finance doctrine]. *Ekonomika Ukrainy - Ukraine economy*, 1 (674), 71-82. [in Ukrainian]

2. Yurkevich, O., Zalizniuk, V. & Subochev, O. (2021). Istorychni peredumovy vynyknennia islamskykh finansiv yak skladovoho sehmentu suchasnoi mizhnarodnoi finansovoi systemy [Historical prerequisites for the emergence of islamic finance as a component segment of the modern international financial system]. *Investytsiyi: praktyka ta dosvid - Investments: practice and experience*, 15, 12–18. Retrieved from: http://www.investplan.com.ua/pdf/15_2021/4.pdf [in Ukrainian]

3. Yurkevich, O., Zalizniuk, V. & Subochev, O. (2021). Chynnyky evoliutsii islamskoi ekonomichnoi doktryny v konteksti rozvytku mizhnarodnykh finansiv [Factors of the evolution islamic economic doctrine in the context of international finance development]. *Ekonomika ta derzhava - Economics and the State*, 8, 73–78. Retrieved from: http://www.economy.in.ua/pdf/8_2021/14.pdf [in Ukrainian]

4. Korneev, V. (2012). Islamska finansova model: osoblyvosti rozvytku [Islamic financial model: features of development]. *Visnyk sotsialno-ekonomichnykh doslidzhen - Bulletin of socio-economic research*, 1 (44), 312-318. Retrieved from: http://vsed.oneu.edu.ua/files/full/1_44_2012/312-318.pdf [in Ukrainian]

5. Yurkevich, O., Subochev, O. & Lykholet, S. (2020). Strukturovani finansy yak okremyi element hlobalnoi finansovoi systemy [Structured finance as a separate element of the global financial system]. *Ekonomika ta derzhava - Economics and the State*, 11, 47–53. [in Ukrainian]

6. Investment Laws in Muslim Countries (2015). Investment Laws, Regulations and Opportunities in Selected Countries. 6th Ed. Int’l Business Publications.

7. Ibn al-Qayyim al-Jawziyyah & Muhammad ibn Abī Bakr (1999). I’lām al-Muwaqi’īn ‘an Rab al-‘Ālamīn. Cairo: Maktabah Ibn Taimiyyah. [in Arabic]

8. Al-Shirbīnī, Syamsuddīin Muhammad ibn Muhammad al-Khatīb (2006). Mughni al-Muhtāj ilā Ma’rifati Ma’ānī Alfāzi al-Minhāj. Cairo: Dār al-Hadith. [in Arabic]

9. Ahmad, Taris et al. (2010). *Islamic Banking and Finance: What It Is and What It Should Be*. 1st Etichal Charitable Trust: London UK.

10. The Civil Code of Ukraine (2003). Retrived from: https://zakon.rada.gov.ua/laws/show/435-15#Text. [in Ukrainian]

11. Criminal Interest Rate, R.S.C. 1985, c. C-46, s. 347, as amended by 1992, c. 1, s. 60(F) and 2007. Government of Canada. Justice Laws Website. Retrieved from: https://laws-lois.justice.gc.ca/eng/acts/c-46/page-77.html#h-122004.

12. Muhammad Iman Sastra Mihajat (2016). Contemporary Practice of Riba, Gharar and Maysir in Islamic Banking and Finance. IIUM Institute of Islamic Banking and Finance. *International Journal of Islamic Management and Business*, 2, 2. Retrieved from: http://www.crimbbd.org/wp-content/uploads/2015/01/Contenporary-practice-of-Riba-Gharar-and-Mysir-in-IBS-Fs.pdf

13. al-Maram, B. (2004). *Dostizhenie tseli v uyasnenii svyashchennykh tekstov, na kotorye opiraetsya musulmanskoe pravo [Achieving the goal in understanding the sacred texts on which Muslim law is based]*.In R.I. Bekkina (Ed), Islamskie finansy v sovremennom mire: ekonomicheskie i pravovye aspekty - Islamic finance in the modern world: economic and legal aspects (p.246) Moscow. [in Russian]

14. Kamali, M. H. (1999). Uncertainty and Risk Taking (Gharar) in Islamic Law. *International Journal of Islamic Management and Business*, 2, 2, 11-14.

15. Al-Zuhayli, Dr. Wahbah (1997). *Financial Transactions in Islamic Jurisprudence*, Rev Ed, Gharar, vol. 5, Dar al-Fikr, Damascus, Syria.

16. Al-Misri, R. Y. (1993). *Al-Maysir wa al-Qimar al-Musābaqaāt wa al-Jawāiz*, Damascus, Syria.

17. Antonio, M. S. (2001). *Shariah bank: from theory to practice*, Gema Insani Press Jakarta, Indonesia.

18. Ayub, Muhammad (2007). *Understanding Islamic Finance,* John Wiley & Sons Ltd, London, England.

19. Kamali, M. H. (2005). *Fiqhi Issues in Commodity Futures in Financial Engineering and Islamic Contracts*. Palgraves: New York.