



## THE GRAMEEN PARADOX

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Grameen Bank of Bangladesh is a modern day Islamic Paradox. It evokes many emotions: There are those who admire it (and thus gave its founder, Dr Muhammad Yunus, the 2006 Nobel Peace Prize), some are devoted to it (consider it to be the model which will pull the world out of poverty), whilst others are against it (for religious reasons) and there are those who consider it to be more Islamic than most Islamic Banks...but still consider it as operating outside the Shari'ah.

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### THE PROBLEM WITH GRAMEEN BANK

Grameen Bank (GB) charges and receives Interest from its borrowers, but it is obviously helping the very poor to help themselves out of poverty by giving them unsecured micro-loans and it has never proclaimed itself to be an Islamic bank, nor has it implied that its actions are within the Shari'ah. So what's the problem?

At the heart of the issue is the fact that GB was founded (and is currently being run) by a Muslim, is operating mainly in a Muslim country and its customers are mainly female Muslims. Therefore, irrespective of the fact that GB has not declared itself as an Islamic bank, other Muslims have the right to ask:

*Is what GB doing within the bounds of Islam or not? What is the problem if GB charges Interest? Is Interest actually forbidden in Islam? If Interest is forbidden, isn't GB actually doing more harm than good by getting its Muslim customers to do something (pay Interest) which is forbidden for them? Is the Interest based micro-loan route the best poverty alleviation strategy available or is there a better alternative?*

The questions can go on; however the crux of the matter and one which needs to be looked at closely in order to ascertain the true position in Shari'ah of GB and other organisations like it is the one relating to Interest.

Such analysis cannot be carried out without going into a lot of detail. Nevertheless, a brief analysis is provided in 2 articles by this author ('A Unified Definition of Riba' & 'The Subtle Nature Of Riba').

But first, let's accept as valid for the moment, the majority accepted opinion of the Fuqa'ha that modern day Interest is equal to Riba. On this basis, the contention here is that since Interest=Riba and since GB is receiving Interest from its borrowers; then no matter how laudable the aims and socio-positive actions of GB are, after everything is said and done - the fact remains that GB still falls outside the Shari'ah.

Therefore, its 'good & positive' actions cannot be accepted by Muslims with a genuine welcome. This is because the means to this noble end is grounded in something which has been strictly forbidden (Riba).

This is based on statements from God Almighty in Surah Taubah (Verses 53 & 54) and Maidah (Verse 27) and many Hadiths – which propounds the simple premise that God does not accept the good from the bad.

That is: God does not accept one's Islam if it is not expressed in deed, and does not accept the deed if it does not conform to the Islamic law (which forbids Riba).

The 1st male to accept Islam after Prophet Mohammed (pbuh): Ali Ibn Abu-Talib (may God be pleased with him), was reported to have said:

*"Be concerned about the acceptance of a deed more than you are concerned about the deed itself. Do you not meditate upon God's words "God accepts only from those who are righteous"? [i.e. those who follow God's law] (Al-Ma'idah 5:27)*

Clearly, demanding Riba is not a deed conforming to belief and is not a righteous act (even if it seems that way in our current 'global' society). Therefore, it can be surmised that based on the above, GB's good deeds cannot be accepted as Islamic because they are not following the laws of God (in relation to Riba). However, there are some Shari'ah based arguments in support of GB that we should look at. It is sometimes contended (Talat Yasmin, Moderator, IBFNet) that since:

*[1] GB is mostly owned by its borrowers (and thus if Interest is Riba and you pay Interest to yourself, are you still engaging in Riba?), [2] that there is an absence of legal instruments between the lender and the borrower (do the rules of Fiqh apply to non-existent instruments?), [3] that there are no stipulations for debt recovery, [4] no compounding of Interest (not quite Riba Al-Jahiliyya) and that [5] there is a cap on total Interest payable; the Interest=Riba equation [the 'Equivalence' position] therefore needs a revisit - especially in the GB context*

However, even once such a revisit is carried out (see 'The Subtle Nature Of Riba' article by this author), it is evident that it changes nothing as the Interest=Riba equation is based on strong scriptural evidence, not on current legal or economic frameworks.

There are also some people who disagree with the basic majority accepted opinion that modern day Interest is actually equivalent to Riba. Their view is that not all Interest is forbidden and that if certain conditions are met, some forms of Interest, under some circumstances, may be considered to be Halal. This is considered as the 'Non-Equivalence' position. Although they make a valid point, this is nullified by some of their arguments, which is sometimes used to insist that GB is functioning within the Shari'ah.

*For instance, some proponents of the 'Non-Equivalence' position consider modern day Interest as not forbidden when it is: (a) in a competitive market, (b) operating in a regulated environment, (c) based on mutual consent and (d) non-exploitative or generally mutually beneficial... (Dr. Mohammad Omar Farooq).*

On the face of it, the 4 factors given seem rather reasonable. However, if we go deeper into this conjecture, it is clear that in terms of the Shari'ah – they do not actually alter the legal position, since:

(a): Just because something is active in a competitive environment, it doesn't necessarily make it legitimate.

Irrespective of whether there is a competitive market or not, the fact remains that Interest is still a demanded charge over and above the loan principal/debt obligation (and the only difference a competitive market makes is the rate of the demanded charge). The only question is whether this charge is Halal or not. The majority accepted opinion is that it is not and unless scriptural evidence (not conjecture) to the contrary is available, we should go with the majority accepted opinion for 2 reasons:

1: Because the legal and theological argument for this, which was arrived at by a huge number of scholars over a huge span of time, is valid and to date - it is scripturally unchallenged and 2: We should not believe that God will allow the majority of these scholars (who after all were very pious & learned individuals) to make such a basic and fundamental error on such an important issue - for such a sustained period of time.

(b): The only regulated environment Muslims should consider as legitimate is first and foremost that which is based on the Shari'ah and then Muslims may accept the law of the land they live in providing it does not go against any part of the Shari'ah. If, on the available evidence, the majority of the Muslims consider Interest as Riba, then a competitive market and a regulated environment does not make any difference as Interest itself is considered to be against the Shari'ah.

(c): People can mutually consent to do a forbidden act. For instance; one person lends money to another for a fixed term, and then the borrower asks for an extension of the loan term and the lender charges him some money for doing this (i.e. they carry out a classic Riba Al-Jahiliyya transaction). Both mutually consent to this without any coercion on either side. By virtue of mutually consenting to this deal - is this transaction made Halal?

(d): Exploitation is covered under the rules regarding Zulm and Gharar so it is forbidden anyway. However, the 'mutually beneficial' factor has a problem. Again, people can do something forbidden such as the transaction mentioned above, where they mutually benefit from the action taken (here, borrower gets more time, lender gets more money). So the fact that something is mutually consented or beneficial does not always make the action Halal.

It is patently clear that the 4 factors offered in support of the Non-Equivalence position are not based on any theological foundations and can clearly be challenged.

The above counter-points are not linked to anything specific but to simple, general observations, and even on these simple observations, the 4 factors do not stand-up either individually or in combination to support the Non-Equivalence stance.

*There are others who argue that since some Islamic financial institutions are operating in a way similar to predatory & profit-driven conventional (Ribawi) banks and as GB is not doing this - this justifies elevating GB to the same position (or even above) IFI's.*

Although it is true that some IFI's are using fabricated 'Halalness', are predatory and profit-driven and are in reality using 'religious blackmail' to unfairly profit from their customers - it does not, by any stretch of the imagination, mean that the fundamental principles of the Shari'ah can be suspended in GB's favour.

No matter how close to the Maqasids (underlying principles) of the Shari'ah GB is in its operations, the fact that it is charging Interest nullifies its pro-Maqasid actions.

The IFI's that abuse their position of trust (as the providers of Halal financial products/services, in line with the Maqasids of the Shari'ah, to the Ummah) do so at their own peril and their actions do not alter the Shari'ah or its Maqasids.

On the contrary, it is because of the strong foundations of the Shari'ah that we can identify and warn against such exploitative IFI's.

### **GRAMEEN BANK = CONVENTIONAL (RIBAWI) BANK**

Dr Muhammad Yunus tries very hard to differentiate GB from conventional (Ribawi) banks (see: <http://www.grameen-info.org/bank/GBdifferent.htm>).

However, if we take the majority accepted position that Interest=Riba and thus forbidden, then since the primary (Fiqh) legal difference between conventional and Halal finance is the 'Interest' component, then it follows that since GB charges 'Interest', then it automatically falls within the conventional (Ribawi) bank group. To analyse this, let's go back to the 5 points highlighted above (page 2):

*[1] GB is mostly owned by its borrowers (and thus if you pay Interest to yourself, are you still engaging in Riba?):*

If one single person owned a lending entity, then of course any excess they pay on top of the loan cannot be regarded as Interest as the lender and the borrower are one and the same. However, if a group of borrowers own a lending entity (such as GB), then each individual borrower may not be paying Interest to ones self, but any given individual borrower will be paying Interest to the other co-owners/borrowers.

Therefore, it does not make any legal difference if even the entire entity is owned by the borrowers - as one borrower is still paying Interest to another borrower.

*[2] There is an absence of legal instruments between the lender and the borrower (do the rules of Fiqh apply to non-existent instruments?):*

The absence of legal instruments between the lender and the borrower does not mean that the rules of Fiqh do not apply - as the intent to charge Interest is there - and is clearly carried through (that's how we come to know of the intent).

*[3] There are no stipulations for debt recovery:*

The fact that there is no stipulation for loan recovery does not mean that Interest is not charged on the loans and that they are not, at some point, recovered in some way or form.

*[4] There is no compounding of Interest (not quite Riba Al-Jahiliyya):*

That compounding of Interest does not take place does not negate the fact that Interest is still charged, albeit in simple form (which is just as forbidden as compound Interest).

*[5] There is a cap on total Interest payable:*

That there is a cap on total Interest payable also does not negate the fact that Interest is still charged, albeit up to a certain maximum (the amount of Interest charged is irrelevant as even a minute rate is still an 'excess' over the loan principal/debt obligation).

Furthermore, if one looks at the specific differentiations made by Dr Yunus, it is evident that these are mainly philosophical (i.e. GB's outer modus operandi, aims & objectives, inertia and outer facade is different from conventional banks) but nevertheless, its underlying foundation still remains Interest based.

It is not suggested here that GB's philosophy is wrong. On the contrary, everything it is doing - with the exception of charging Interest - is based on high Islamic principles. Unfortunately the fact that it charges Interest takes it out of the 'Halal' camp and into the forbidden, conventional Ribawi one.

Therefore, no matter how remarkable a job Dr Yunus does in differentiating GB from the conventional banks, from the Islamic perspective - GB is still (on objective analysis) very much a conventional Ribawi bank in substance and its operations do not change the fact that the majority accepted opinion of the Fuqa'ha is that all modern day Interest (no matter how small) is Riba, thus forbidden.

### **GRAMEEN BANK = MORE ISLAMIC THAN MOST ISLAMIC BANKS**

As mentioned above, the contention here is that everything GB is doing - with the exception of charging Interest - is based on high Islamic principles such as: acting fairly and openly, helping the poor & needy, being very flexible, not being too demanding, etc.

The simple fact is that the management of most Islamic banks & financial institutions (IFI's) should be doing these things but they are not. Some are indeed trying to function by the high ideals of the Shari'ah but the management of most IFI's are in fact solely profit orientated, whereas GB is socially orientated (which Islam itself is).

The purpose of IFI's is to allow Muslims to have access to Halal financing (not to create social reform). However, the purpose of the people running the IFI's is to make sure that not only the laws and tenets of the Shari'ah are followed - but that also its SPIRIT too is upheld and propagated (i.e. to work towards necessary social reform in alignment with Islamic laws & values). GB has done the opposite. It has not followed the laws of the Shari'ah (as regards to charging Interest), but it has followed its spirit by helping the poor to help themselves.

It is not uncommon to see the spirit of the Shari'ah in non-Islamic environments. Consider for instance the financial regulation laws of the UK (and most other countries in the West) - where the legislation prevents fraud, unjust & unfair acts, forces people to be fair and open, etc (i.e. prohibits Zulm & Gharar).

Why aren't the IFI's operating in a similar fashion to GB? Perhaps it is because the people running IFI's are just conventional bankers at heart (apologies to those who aren't) and their motivation is simply making money, rather than helping the poor.

There is nothing wrong with being profit oriented, but since the Shari'ah is socially orientated and has several aims & objectives (more than the stated 5 Maqasids), then it follows that any organisation which purports to function within the Shari'ah should try to not only follow the rules (the letter) of the Shari'ah - but also its goals & the purposes (the spirit) as well, otherwise it cannot be truly within the Shari'ah.

If GB stopped charging Interest and adopted an alternative which is within the Shari'ah - then it will become more Islamic than most Islamic banks & financial institutions currently in operation throughout the world.

## CONCLUSION

If I travel along the wrong (but an arduous) road for 1,000 miles - I can be applauded by someone for the journey I undertook but of course, I can be criticised by the same person for taking the wrong road. There is no contradiction in praising someone for his efforts at 'attempting' to do good - but at the same time criticising him for not doing it in the correct way (as identified by the majority accepted opinion).

The example is when one congratulates a friend for attempting to pray, but at the same time, (if he is obviously doing it wrong) pointing out to him and clearly telling him to correct how he prays. If the friend believes he is doing it right - even though you know he is doing it incorrectly (and have the evidence to prove it to him) - you can at the very least warn him about his actions and point out to him the negative effects of those actions (incomplete Salah, or in the case of GB, making its Muslim customers pay Riba to it) and try to make your friend see and understand his error.

If some people are engaged in impermissible activities - it is not up to us to condemn them (in the spiritual sense). Our task is to tell them that they are committing impermissible acts and to ask them not to do it (and to seek God's forgiveness). It may be that before death they will ask for God's forgiveness and at the final analysis & judgement in front of God, it may be that God will forgive them. Therefore, it is not wrong to applaud good intent - but at the same time, if the good intent is executed in a sinful way, we MUST forbid it - but without condemning the person (as this is the sole right of God alone).

We therefore should applaud GB for its efforts (because its intentions, as far as we can ascertain, is to do something good and it strove hard for it), but as Muslims, it is our duty to enjoin the good and to forbid the bad. In this case, GB's 'good' actions were (and are) carried out in an impermissible way (it travelled along the wrong road), because making money from the poor through Riba in the name of poverty alleviation is clearly not "the good" - in the reality that is Islam.

Thus, based on the arguments provided in this article, Grameen Bank cannot be regarded as an Islamic solution to poverty alleviation. Nevertheless, we should not lose sight of the fact that what GB is doing is helping the poor. However, even this is contrary to the spirit of the Shari'ah as God has already given us the solution to poverty alleviation in the form of the organised collection and distribution of Zakah (not GB's Interest based micro-loans, funded from Interest charging sources).

Zakah can be used to offer Interest-free micro-loans (Qard Hasan), to carry out micro venture-capital activities (provide equity to small business start-ups and going concerns), to give cash-gifts to worthy individuals, to give emergency aid to the very poor, etc. This is the real alternative; the best poverty alleviation strategy available to us, as it is was given to us directly by God and not by fallible human economists who are not able to see every single outcome of their plans & strategies.

It is said the GB's contribution is in the field of poverty alleviation and its program or framework was not guided or motivated by any Islamic consideration. God says in the Qur'an:

*"Say (O Muhammad): my prayer, my sacrifice, my living, and my dying are all for God, the Lord of all that exists" (Al-An'am 6:162)*

Thus, if our actions are not guided or motivated without a reflection of God in our thoughts (i.e. without any Islamic consideration) - then what real (non-temporal) value is there in such actions?

*NOTE: the author would welcome & appreciate feedback from the readers of this article. Please email Mohammed Robbani - amr@insif.org - with your questions, queries and comments.*

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*God alone knows the truth and it is to Him we submit in all that we do*

قَالُوا سُبْحٰنَكَ لَا عِلْمَ لَنَا اِلَّا مَا عَلَّمْتَنَا اِنَّكَ اَنْتَ الْعَلِيْمُ

الْحَكِيْمُ

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