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A CRITICAL REVIEW OF THE CONCEPT OF RISK IN ISLAMIC FINANCE: ENLIGHTEN EVIDENCE FROM THE HOLY QURAN, HADITH AND SHARI'AH MAXIMS

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ABSTRACT

This study provides a description of the concept of risk exist in financial transaction from the perspective of the Quran, Sunnah, and Islamic classical literature. It also ascertains whether risk is synonyms with the terms Gharar (uncertainty) and Maysir (Gambling). Finally, it sheds light on the permissibility of risk recognition, identification and sharing, and taking of precautionary steps for mitigation and management. These objectives are achieved through critical analysis of Islamic and conventional financial literature. This research employed an inductive qualitative methodology. The inferences are drowned from the Qur'anic verses, authentic hadiths, and Shari'ah maxims. It is observed that Islamic scholars define risk in a way that is very consistent with the view of conventional economists. Since, both schools of thought define risk in a negative sense and have a consensus that eventually risk leads to losses. The concept of risk is embedded in the various verses of the Quran, Hadiths, and Shari'ah maxims. These sources not only recognize the concept of risk but also provide general guidelines to identify, monitor, and mitigate risk confronted in daily life and economic activities. Shari'ah defines guidelines for risk-taking for instance, Shari'ah prohibits those activities in which gambling (Maysir) is involved and where gharar-e-qaseer arise. Moreover, the literature reveals that the concept of risk is not synonymous with the concept of gharar. While, gharar-e-qasser invalidates the contract, whereas risk falls under the domain of minor gharar, which is permissible.

Keywords: Risk, Financial Transaction, Gharar, Quran, Hadith, Shari'ah maxims

1. INTRODUCTION

Risk is a significant element of routine endeavours of human life including business and non-business activities. All humans' deeds are subject to certain risks that lead to physical or financial losses. Hence, it has remained under discussion among researchers, academicians, and practitioners in both classical and neoclassical periods. Specifically, the dissuasion on the permissibility of risk has attained more attention with the emergence of Islamic banking and finance. According to Belabes (2017), the idea of risk goes back to the early twentieth century. The economic literature generally conveys the idea that Islam carries in its deepest essence a risk aversion. Some economists would relate this interpretation to fatalism (Al-Buraey, 2010). The examination of the classical Islamic literature represents that the inclusive concept of risk and its utilization is not only a notion that precedes modern times, but by normative approach, that risk is not absolutely prohibited. Risk is encouraged if it provides benefits to the real economy where everyone will draw profit, and forbidden if it is related with maysir (gambling) where one player gain at the expense of other (Belabes, 2017). Similarly, Ibn Taymiyah (1997) categorized risk into two forms. The first one is related with business activities and consists of purchasing goods in order to sell it in exchange for some profit while putting ones' full trust in God (tawakkul). This type of risk is unavoidable. The second form of risk is associated with the games of chance (maysir), which is taken for the sake of enriching oneself by illegal means. Allah and His Messenger Prophet Muhammad (P.B.U.H) strictly prohibit such types of risks.

One strand of literature asserted that the term risk is synonymous with the Arabic word gharar, where the outcome of something is indefinite. Islamic scholars have consensus that gharar invalidates the contract and is therefore prohibited (Al-Dhareer, 1997; Al-Darir et al., 2004; Obaidullah, 2005; Al-Suwailem, 2006; Visser, 2009; Yankson, 2011; Lambak, 2013). Other studies like Swartz (2013) and Kozarevic et al. (2013) stated that the Arabic word “mukhatarah” literally means risk. The risk that happens and is predictable in an everyday transaction is permissible and does not void the contract. Further, Waemustafa and Sukri (2016) revealed that risk (mukhatarah) is lying in the domain of minor gharar, which is considered an essential element of every contract, and difficult to eliminate completely. Hence, it cannot invalidate the contract.

There is a common misunderstanding that taking and management of risk is not permissible under Shari’ah. The believers of Islam have strong faith that this world is a temporary place for us and that eternal life will be in the Hereafter. Sometimes Allah will test us and we will exposed to certain difficulties (Salman, 2014). This is clear from the Qur’anic verse “And We will surely test you with something of fear and hunger and a loss of wealth and lives and fruits, but give good tidings to the patient.” (Qur’an, 2:155). Thus, some scholars argue that taking and management of risk contradicts the concept of “tawakkul” (trust in Allah). Allah only knows the faith and future of human beings and decides benefits and losses for everyone.

This study tried to contribute to an existing set of knowledge in different ways. First, we tried to clear understanding of the concept of risk through the Quran, Sunnah, and Islamic classical literature. Second, we tried to clarify the parameter of risk-taking as per Shari’ah. Moreover, to create an understanding of risk from the perspective of Shari’ah Maxims. This study will remove the misconceptions and create a clear understanding regarding the Shari’ah point of view on risk. Moreover, this study might provide some comprehension to control, organize, and direct economic activities in the context of Risk-taking in Shari’ah.

The rest of the paper is structured as follows. We begin by discussing the methodology, followed by the etymology of risk in conventional literature. Subsequently, we provide a description of risk from Islamic literature. The next section examines the perspective of risk in the Qur’an, Sunnah, and lastly from legal (Shari’ah) maxims. The conclusion is given in section 9.

2. Methodology

This research employed inductive qualitative methodology. Inductive content analysis involves collecting and analyzing data without preconceived categories or theories. This flexibility allowed us to define the pattern and theme of risk in the Shari’ah perspective. Therefore, in this research, we explored the literature to find out the concept of risk in the Quran, Sunnah, and classical Islamic literature. We searched and downloaded the most relevant research articles and books in available research databases and libraries. Finally, we analyzed the contents of 55 research articles including books.

3. Etymology of Risk in Conventional Financial Literature

The etymological roots of the word risk go back to the Italian term “rischio” which means probable loss or negative consequences arising from an unexpected situation (Magne, 2010). The implication of this meaning is clearly negative. Moreover, Bouslama and Lahrichi (2017) reported that the source of the word “rischio” is to be found in another Latin words risco and risico. These words have commonly used among traders in the beginning of thirteen century in reference to the company that could make a loss or profit. However, before this, the words used in the reference of consequences of uncertain situation or hazardous. Further, they reported that the Latin root is not clear, and they might be associated to the term “resecare” where “re” means back and “secare” mean cut. Collectively, the word means to remove or cut away. This word is usually associated with transport via sea that refers to the edge of a ship, which helps in its attachment with a rock. In general sense, it refers to the risk faced by both parties in a contract i.e. risking loss of goods at sea. In a specific sense, the word risk is the threat of loss (El-Gamal, 2000; Magne, 2010).

In the Oxford English dictionary, risk means "a possibility of harm or damage against something which is insured". As a noun, it means the probability of loss or damage of property or money, and as a verb, the word means something or someone in failure, damage, or loss (Noor et al., 2018) However, the term risk does not have a universal definition. Different academicians and researchers have various approaches to describe the term in different words. For instance, Howells and Bain (1999) defined risk in financial terms as the "probability that the actual return may differ from the expected return". Similarly, Khan and Ahmed (2001) assert that those situations where either result is unknown or it yields more than one result are more prone to risk. Gallati (2003) defined risk as a condition where the likelihood of deviancy appears from probable results or a condition where exposure to danger exists. It implies exposure to uncertainty or threat.

Chernobai et al. (2007) defined risk as "an expression of the danger that the effective future outcome will deviate from the expected or planned outcome in a negative way". Risk is anything that generates difficulties in the achieving of specific goals (Shafiq & Nasr, 2009). Hassan (2011) defined risk as a chance of adverse conditions, a chance of losses incurred, and the probability or threats of damage usually caused certain loss levels of any asset. Bakr et al. (2012) reported that simply risk means uncertainty that can be expressed through probability. Ghosh (2012) defined bank risk as "a potential loss that may occur due to some antagonistic events such as economic downturns, adverse changes in fiscal and trade policy, unfavorable movements in interest rates or foreign exchange rates, or declining equity prices".

The risk can be defined as "an uncertain event, but possible, that could cause some losses" (Apatachioae, 2015). Likely, Misman and Bhatti (2010) and Bouslama and Lahrichi (2017) described risk as the existence of uncertainty about future outcomes whereas the possibility of more than one outcome and the ultimate outcome is unknown or unclear".

4. Description of Risk in Islamic Financial Literature

Quran and Hadith, the primary sources of Islamic Law, along with other relevant Islamic literature justifies that the terms mukhatarah, gharar, maysir, Al-ghunm bil ghurm and Al-kharaj bil daman are the key concepts prevalent in Islam relating to the concept of risk (Waemustafa & Sukri, 2016). In the Arabic language, the word 'mukhatarah' is used for the term risk that means danger (Elgari, 2003; Gruining & Iqbal, 2008; Kozarevic et al., 2013; Waemustafa & Sukri, 2016). The literal meaning of risk in fiqh literature is any action that causes impairment (Qal'aji, 1985). Similarly, Al-Zuhayly (1989) defined risk as a venture into danger, which is a situation that takes place in opposition to the expected one. Further, Al-Suwailem (2006) stated that risk is the factor that involves a chance of loss, which of course is not desirable in Islamic perspective.

Several Muslim jurists employed the terms mukhatarah and khatar for business risk and defined as "possibility of unexpected outcomes" (Al-Sharbasi, 1981). In reference to the Al-Mawsu'ah al-Fiqhiyyah Al-Kuwaytiyyah (1983-2006), mukhatarah is the uncertain and obscure status of a commercial transaction where gain or loss is totally not foreseen. Mukhatarah (risk), in the words of Elgari (2003) is "the situation that involves the probability of deviation from the path that leads to the expected or usual result". Further, he systematically analyzed the word mukhatarah and concluded that it is synonymous with the English word risk. Muhammad (2008) also reported that the concept of Muslim jurists about mukhatarah and khatar is almost like that of conventional economist. In economic perspective, risk refers to the possibility of losing wealth. It is not desirable on its own, but it is necessary for business activities and is often taken in order to create value and generate wealth.

Uwaidah (2010) pointed out that words mukhatarah and khatar are employed interchangeably with gharar. The literal meaning of gharar is uncertainty that is the fraud, mistake, and danger (Dusuki & Smolo, 2009; Razif & Mohamad, 2011; Hidrus & Rahman, 2013). According to Al-saati (2003), gharar means the state of being on the verge of destruction. Further, he stated that the verbal noun of Gharar "Taghreer" means misrepresentation or deception that contains exposing others or oneself or other properties or oneself to threat and danger. Gruining & Iqbal (2008) explain that gharar is uncertainty. Gharar refers to a situation where either some elements of the contract are known to the contractual party that is not known to the other party, or more explicitly none of the party involved in a contract has control over the contract' subject.

5. Islamic Perspective of Risk

The protection of goods, property, and capital is one of the core objectives of Shari'ah (Islamic law). Shari'ah strongly advises cooperation, mutual assistance, and solidarity to avoid the risks individuals may face in daily life. Holy Qur'an documented the cooperation and mutual assistance in the following verses.

"Cooperate with one another in goodness and righteousness, and do not cooperate in sin and transgression. And be mindful of Allah. Surely Allah is severe in punishment" (Qur'an, 5:2).

Prophet Muhammad (P.B.U.H) also reported that property and safety of others cannot be contested, and any kind of intrusion of property rights is a property crime. Further, Prophet Muhammad (P.B.U.H) permits the mudarabah and musharakah where the contracting parties must share their profit and loss according to the agreed terms and conditions. The making of profit in any business without bearing loss is not acceptable in Islamic law. Rosly (2005) reported that the seller must bear the risk of depreciation or damage of goods prior to they are delivered to the purchaser.

Risk management is vital in business and financial transactions, and it falls inside the domain of the higher objectives of Islamic law (Maqasid Al-Shari'ah). The main objective of Islamic law is to protect the Din (religion), nafs (life), nasl (lineage), aqal (intellect), and mall (wealth) (Noor, et al. 2018). Islam encourages believers to manage risks in daily life if it is not carried out purely for making a profit and nor involve any practices forbidden by riba, gharar, gambling, chance, or injustice (Chapra, 2009). According to ISRA (International Shari'ah Research Academy) (2012), Islamic law restricts and condemns the two extreme behaviours associated with risk. The first one refers to the complete evading of risk such as the risk contained in the transaction of interest (riba), where the lender earns money without assuming or taking business risk. The second one is related to taking excessive risk as in the situation of maysir (gambling). This prohibition is based on the Islamic ruling that strictly nullifies the contract containing elements of excessive uncertainty, cheating and riba. Further, Islamic law clearly distinguishes between two types of risks. The risk associated with economic transactions or simply risk linked with activities that generate wealth or value added. Secondly, the risk involved in zero-sum activities (where no extra wealth is generated) or in the activities of gambling (eating wealth for nothing) (Bouslama and Lahrichi, 2017).

According to some classical scholars, risk in conventional terms is synonyms with the concept of Gharar and Maysir (gambling) in Shari'ah. As both Gharar and Maysir are prohibited in Shari'ah therefore, risk taking is not permissible. However, few other scholars are of the opinion that risk is laying in the domain of minor gharar i.e. Gharar-e-yasir which did not nullify contract. Thus, the term risk is different from the concept of gharar. Similarly, gambling is strictly prohibited by Shari'ah, where gain purely depends on luck and the chance of losing is more than that of winning. Yet, the occurring of risk is not purely based on luck. The risk can be measured and minimized through different techniques. Shari'ah insists and encourages the minimization and sharing of risk in daily and business activities. Even Islam prohibits gain and profit without assuming and bearing risk. Therefore, the Quran and Hadith, the primary sources of Islamic Law, along with other relevant Islamic literatures justify the term risk (mukhatarah).

Islamic ideology does not support the concept of associated risk with the probability of loss provided that there is no clear demarcation of accumulation and growth of wealth. (Al-Suwailem, 2002). Moreover, the researchers assert that one must not indulge him in the aim of risking loss of wealth. Such risk may be dealt with as an upcoming difficulty. There are many situations in daily life where such difficulties are not welcomed by choice but they happen often. The same idea is propounded by Sabiq (1999) where a reward for any activity is not based on the difficulty involved in an action but on the positive utility of the action. Every good action faces difficulties. A good action is considered good on the basis of its ultimate effect and positive utility but not due to the difficulties faced during these acts. Briefly, when an action is determined whether it is good or not, the difficulties play a secondary role. The primary role is played by the positive utility of an action. Al-Suwailem (2006) further endorses them and argues that risk must not be the aim of an action although it happens as a hurdle during its performance. Hence, the success of economic policies is identified through financial gains, not by the risk involved in them. Such financial gains reveal the risk faced during an action but the risk does not identify the financial gains by itself. Hence, it is affirmed that taking risks is allowed in Islamic Ideology to achieve financial gains without desiring risk. This difference separates forbidden and legal risks poles apart. Legal risk refers to the risk when it is taken for financial gains while the forbidden risk is the one where no financial gains are expected such as the activity of gambling (Maysir).

According to Bouslama and Lahrichi (2017), a risk may declared acceptable because of the following three major criteria.

i) The first criterion is the Degree of inevitability, which reveals that it is not possible to gain economic value without taking into consideration the risk of bankruptcy or financial loss. It is not possible to separate risk from the generation of economic value and real economic transactions. Islamic injunctions forbid separate risk from real economic transactions because it will lead to more risk and economic stability would be at stake. For instance, the sale of debt is prohibited at a specific price and all financial derivatives in economics and finance are prohibited where risk and ownership are separated from each other.

ii) The second criterion is the importance of risk. Islamic injunctions accept risk where failure has fewer chances as compared to success. As per this criterion, Islam prohibits gambling where loss is inevitable. Such activities involve illusion and fraud. The gambler thinks that he has more chances to win the prize but in fact the chances of winning are minute while the degree of loss is high.

iii) The third criterion is the Degree of Intentionality which is derived from the above two criteria. The primary aim of an economic activity is the creation of wealth and not the risk faced during such activities. Hence, the stated risk must be avoided to plan it as an element of the economic transaction. The decision of an agent must be encouraged by his intentions to gain success and wealth and discouraged by the high probability of loss. This principle differentiates investment from gambling. Both of them are differentiated by the probability of success. For example, a person setting new business is sure about the success of his start-up. On the other hand, a gambler is confirmed about the probability of his loss but the high winning prize motivates him to participate in a game where chances of success are tiny. It can be safely assumed that any activity where the chances of success is less than failure can be considered as cause of failure, not as cause of success.

6. Concept of Risk in the Light of Qur'an

Islam recognize the concept of risk. There are several verses in the Holy Qur'an which instructed Muslim to handle different risks confront in financial and wealth affairs. Those verses suggest proactive steps to be taken to eliminate or at least minimize risks, and specifically represent the importance of strategic planning to alleviate and control expected risks. The Holy Qur'an presents the complete code of life and provides general guidelines about the management of risk in daily life. The Holy Qur'an described the stories of earlier prophets so that Muslims can take guidelines and lessons in the worst situations. The prominent story is the prophet Yusuf stated in the chapter of Yusuf in the Holy Qur'an that recommend the general concept of risk, where, Prophet Ya'qub, the father of prophet Yusuf, advise his sons to enter Egypt from various gate, not by one gate. The advice of Prophet Ya'qub is stated in the Qur'an in the following verses.

"O my sons, do not enter by one gate, and enter by separate gates; and in no way can I avail you anything (whatever) against Allah. Decidedly, judgment belongs to none except Allah. On Him I have put my trust, and in Him let (all) the trusting ones then put their trust."(Qur'an, 12: 67).

These verses described the general guidelines on how to manage and reduce risk. Prophet Ya'qub provided guidelines to his sons to prepare the best plan and pursue options so that they would be saved from danger. Muslims must have faith and trust that Allah decides everything instead of that they must plan for a worse situation. It is not contradictory to the trust of Allah. Hence, it is permissible to use various tactics to handle and decrease the expected risks.

The concept of risk is also derived from the story of the Egyptian' king's dream interpreted by the prophet Yusuf. The dream of the king is stated in the Qur'an in the following verse.

"And (once) the king (of Egypt) said: Verily I saw (in a dream) seven fat cows which seven lean cows were eating; and seven green ears of corn and other (seven) dry. O' chiefs (of my court)! Explain to me my dream, if you are able to interpret dreams" (Qur'an, 12: 43).

The interpretation of the dream made by the prophet Yusuf is that Egypt would be exposed to seven years of famine after seven years of prosperity. There would be no crops and sufficient food for the survival of people. As Qur'an states the interpretation of the prophet Yusuf in the following verses:

"He said: 'You shall sow for seven consecutive years and that which you have harvested you leave it in its ear, except a little whereof you eat. Then will come after that seven difficult [years] which will consume what you saved for them, except a little from which you will store. Then will come after that a year in which the people will be given rain and in which they will press [olives and grapes]" (Qur'an, 47-49).

Prophet Yusuf not only interpreted the dream of the king but also proposed and advised the fourteen-year strategic plan to the King to overcome the forthcoming calamity and expected worse situation. Specifically, he advised that the people of Egypt must produce a large quantity of grains during the coming seven years of rains and keep the extra grains to be utilized in the next seven years of drought (Agha & Sabirzyanov, 2015). As the best planner, Prophet Yusuf (A.S) devised a unique approach to curb the forthcoming situation of drought. He proposed the idea to grow more crops than the quantity needed and store the additional grains. Following the proposed approach of Prophet Yusuf (A.S), the government of Egypt and its people successfully survived for seven years during the famine. This strategy is the best example of risk management where production of more crops and storing the additional grains reduced the risk of hunger among the people of Egypt. It clearly indicates that Islam allows to take measures for risk in worst conditions. All kind of preparation made for mitigating the effect of drought, floods, earthquakes are not contradictory with trusting in Allah and submission to Allah's decree (Ibn Kathir, 1988). Although the risk described in this example is not the same as financial risk but we may get a general idea of risk management to curb any worst situation.

There is another verse in the Qur'an that imposes attestation on contracting parties in a financial dealing. The verses particularly focused on the management of default (credit) risk.

"O you, who have believed, when you contract a debt for a specified term, write it down. And let a scribe write [it] between you in justice. Let no scribe refuse to write as Allah has taught him. So let him write and let the one who has the obligation dictate. And let him fear Allah, his Lord, and not leave anything out of it. That is more just in the sight of Allah and stronger as evidence and more likely to prevent doubt between you, except when it is an immediate transaction that you conduct among yourselves. For [then] there is no blame upon you if you do not write it. And take witnesses when you conclude a contract. Let no scribe be harmed or any witness. For if you do so, indeed, it is [grave] disobedience in you. And fear Allah. And Allah teaches you. And Allah knows of all things" (Qur'an, 2:282).

The above verses comprehensively discussed the clarity of contract between parties from any types of gharar, disputes, and uncertainty. There is always a chance of disputes and alterations of opinion over mutually decided terms and conditions in business and financial dealings. So, it is required that transactions involving money, rights, ownership, land, property, and other valuable things must be recorded in the form of a contract. The contract must be signed by the parties and witnesses. The well-documented contract reduces the default risk and provides a guarantee of the rights of all contracting parties. Allah strictly commands people that they must not waste and reject the witnesses when needed, and Allah guarantees all kinds of protection of witnesses and scribes. Witness and evidence are significant to disclose justice and truth and reduces uncertainty and disputes.

Attestation is the fundamental prerequisite in Islamic commercial law whether it is official documentation at the organization level or usually documentation at the individual level. The basic aim of the attestation is to reduce the risk of any contracting party refuting the mutually agreed conditions, which may lead to capital loss. Further, in debt contracts, Islamic law permits creditors to take collateral as debt security. This will mitigate credit risk in the case of the debtor's failure to gratify his obligation. Thus, the verses mentioned above clearly represent that any type of risk and loss must be eliminated in a possible way up to the maximum level (Usmani, 1978).

In chapter five of the Holy Qur'an, there is a verse, which prohibits certain activities that leads to harm and damage to society. Allah addresses His believers to save their selves from prohibited activities like intoxicants, maysir (gambling), ansab (fortune telling), and azlam (arrow of seeking luck) to save themselves from the risk of hostility and hatred. If you (believers) do not obey this command, you will fail in the objectives of faith and submission to God.

"O you who believe! Intoxicants (all kinds of alcoholic drinks), gambling, Al-Ansab, and Al--Azlam (arrows for seeking luck or decision) are an abomination of Shaitan's (Satan) handiwork. So, avoid (strictly all) that (abomination) in order that you may be successful. Shaitan (Satan) wants only to excite enmity and hatred between you with intoxicants (alcoholic drinks) and gambling and hinder you from the remembrance of Allah and from As-Salat (the prayer). So, will you not then abstain?" (Qur'an, 5:90-91).

The prohibited activities elucidated in the above verses have two possible outcomes either the parties involved will be lucky to win the bit or they will lose. Hence, the contract containing these activities would be null and void (Qalaji, 1985; Hamad, 1993).

Another text in the Qur'an, which reveals the concept of risk, is documented in the chapter of Al-Baqarah. The verse is following.

"Those of you who die and leave widows should bequeath for their widows a year's maintenance and residence; but if they leave (the residence) there is no blame on you for what they do with themselves, provided it is reasonable, and Allah is Almighty, All-Wise" (Qur'an, 2:240).

This verse indirectly focused on the probable risk exposed by the family in the case of the death of their breadwinner. The qur'anic verse encourages the husband to make a strategy for financial assistance to overcome the risk of living faced by his family in the case of his death.

The husband must forecast and save enough amounts based on their historical and current need and expenses. Hence, it is not prohibited that any individual or an organization identify the definite risk that may occur, though he has no capability to assure its incidence and take proactive actions based on the experience to encounter the impact of risks.

Another verse is where Allah permitted the forbidden food items whenever there was a severe need for them. The verse is the following.

"Say (O Muhammad): I do not find in what has been revealed to me anything forbidden to eat except carrion, running blood, swine which is impure or a sinful offering in the name of any other than Allah. But if someone is compelled by necessity neither driven by desire nor exceeding immediate need then surely your Lord is All-Forgiving, Most Merciful" (al-Qur'ān, 6:145).

The verse specifically describes the risk to human life. Allah has given relaxation about consuming unlawful items in the case of necessity to ensure the safety of human life. Islamic scholars have a consensus on the permissibility of forbidden food items at a time when there is a threat to life. It means that Allah does not put the human being at high risk and permit them to mitigate risk.

From the above Qur'anic verses, it is concluded that Islam recognizes the general concept of risk. Also, Islam allows the identification and mitigation of risk. Although the concept of risk demonstrated by the verses is not specific to that of financial risk but enlightens the general concept of risk. The verse suggests that proactive steps would be taken for the elimination of the possible adverse impact of risk confronted in daily life. The main objective of the verses is to reduce the losses that arise from the happening of adverse events, which ultimately consist of the concept of risk and objectives of risk management. Thus, it is necessary to identify, monitor, and mitigate the risk.

7. Concept of Risk in the light of Hadiths

The recognition of the risk management concept is not only the basis and root in the Holy Qur'an but also in Sunnah as well. There are certain situations that occurred in the life of Prophet Muhammad (P.B.U.H) which reveal the general concept of risk. The prominent is the history of the Prophet's migration to Madinah which provides us guidelines that how the Prophet (P.B.U.H) handles the risk when there is a serious risk to his life. The Prophet Muhammad (P.B.U.H) mitigated the risk of getting martyred during the night of migration by inviting Hazrat Ali (R.A.) to sleep in his bed. It is documented that a night prior to the migration of

Prophet Muhammad (P.B.U.H) from Makkah, the tribesmen of Quraish surrounded his house. They tried their best not to sleep for the whole night so that they could easily martyr him early in the morning. They used to keep an eye on him through a tiny hole in the door and found someone sleeping on his bed (Akhter, 2010). Here, the Prophet Muhammad (P.B.U.H) identified the risk to his life and then reduced it by inviting Hazarat Ali (R.A.) to sleep on his bed.

Another example is the history of the Battle of Khandaq (Battle of the Trench) fought between Muslim and Jewish tribes in 5 A.H. Muslims name the battle after the digging of a trench around Madinah city. The advice of Salman Farsi (R.A.), a learned Persian companion of Prophet Muhammad (P.B.U.H) recommended the digging of a trench. The main aim of the trench is to protect himself from the high risk of casualty in the battle. The strategy succeeded when the enemy approached Madinah and saw the deep trench, they faced a setback. Thus, the digging of a trench (Khandaq) is the effective preventive and mitigative strategy adopted by Muslims. This suggests the identification and taking of precautionary steps to overcome the severity of expected worst scenarios and risks.

There are various authentic hadiths that demonstrate the recognition of the risk concept. This recognition is based on the following famous hadith reported by the companion of Prophet Muhammad (P.B.U.H) Anas bin Malik.

“Prophet Muhammad (peace be upon him) once asked a Bedouin who had left his camel untied, "Why do not tie your camel?" the Bedouin answered," I put my trust in Allah" the prophet then said, "Tie up your camel first then put your trust in Allah” (Sunan al-Tirmidhi, Vol.4, No. 2517).

The hadith highlights the identification of risks such as the camel may be stolen if not properly tied and mitigation of risks such as the stolen of camel can be prevented by taking the proactive step of tying up the camel. The hadith also focuses on that without proactive and preventive steps or efforts taken for the elimination of worse situations, total submission to Allah may not be appropriate (Laldin, 2013). Muslims should put their trust in Allah but must not be fatalistic or passive. Allah allows Muslims to take measures to handle natural disasters and manage the risk of loss. This concept does not go against the idea of trust in Allah Almighty (Tawakul), which means the right choice to gain the aims and then praying to Allah Almighty for success (Usmani, 1999).

There is another hadith reported by Anas bin Malik that the Prophet (P.B.U.H) stated:

“Trade the money of the orphans, so it will not be eaten (decreased) by zakat” (Sunan al-Tirmidhi, Vol.2, No.641).

In this hadith, Prophet Muhammad (P.B.U.H) clearly instructed the guardian of the orphans to invest the orphans’ wealth in a trade. The trade will yield income which prevents the orphans’ wealth from further loss due to the payment of zakat (Malik, 2004). The hadith focused on the proactive step to save the orphans from the risk of decreasing their wealth. Another hadith indicates the sound sign of risk management is reported by Ibn Abbas (may Allah be pleased with him).

“Whenever Abbas ibn Abdul Muttalib (may Allah be pleased with him) handed over his assets [camels] for mudarabah to his partner, he stipulated that he should not take the assets across the sea, nor take them down to the bottom of a dry riverbed, nor trade them for live animals. If he were to do any of these, he would have to bear the compensation. Word of al-Abbas stipulation reached Rasulullah (P.B.U.H.) and he allowed it” (Al-Sunan al-Kubra, Vol. 6, p. 111).

The hadith describes the business of Abbas ibn Abdul Muttallib (may Allah be pleased with him), where he takes preventive steps to save himself from excessive risk. The hadith allows stipulating terms and conditions in the business of mudarabah to avoid exposure to excessive risk. This hadith is the basis of rulings for restricted mudarabah. In restricted mudarabah, the capital provider put certain restrictions on mudarab where to invest the fund. The capital provider aims to protect himself from the excessive risk of loss (Al-Daraqutni, 2004). Hence, the hadith allows the forecasting of expected risk and to take precautionary steps to avoid the risk that may occur.

There are other hadiths reported by various companions of Prophet Muhammad (B.P.U.H) about the sale transaction. The hadith are the following.

“Abu Huraira (Allah be pleased with him) reported that Allah's Messenger (May peace be upon him) forbade a transaction determined by throwing stones, and the type which involves some uncertainty” (Sahih Muslim, No. 1513).

"Ibn Abbas (Allah be pleased with them) reported Allah's Messenger (May peace be upon him) as saying: He who buys food grain should not sell it until he has taken possession of it" (Sahih Muslim, No. 1525a).

"Jabir b. Abdullah (Allah be pleased with them) is reported to have said that Allah's Messenger (may peace be upon him) forbade the sale of a heap of dates the weight of which is unknown in accordance with the known weight of dates"(Sahih Muslim, No. 1530a).

"According to Abdullah b. Dinar, Ibn Umar (may Allah be pleased with them) said that a man once told the Messenger of Allah (may peace be upon him) that he was tricked during a business deal. The Messenger of Allah (May peace be upon him) advised him to say, "There should be no attempt to deceive" When you enter into a transaction" (Sahih Muslim, No. 1533a).

These hadiths describe the prohibition of any type of gharar (uncertainty) or risk that may be present in a sale transaction or transaction based purely on luck. The hadith evidently prohibits the sale and purchase of substance where the subject matter, quality and quantity of the substance are unknown. Also, it restricts the contracting parties from deceiving each other in a transaction. The aim of the hadiths is to provide a safeguard to society against any type of uncertainty and dispute associated with transactions. Hence, the hadith provides guidelines to identify potential uncertainty and risk related to transactions. If there is uncertainty about the subject matter, quality, or quantity of substance, it is recommended to avoid such types of transaction as it leads to dispute and losses.

8. Perspective of Risk from Legal (Shari'ah) Maxims

Legal maxims (Al-qawa'id al-fiqhiyah) are universal principles of jurisprudence that may be used in different situations that are dealt with under general injunctions. These maxims depict the objectives of Shari'ah and play a significant function in concluding various fiqh rules to come up with specific hukum (command) (Saiti & Abdullah, 2016). Islamic scholars have a consensus that legal maxims are capable of being used as basis and evidence for juristic rulings. The reason is that it is based on strong evidence from the Qur'an and Sunnah and conformity with the maqaṣid of Shari'ah and public benefit (maṣāliḥ) of the people (Muhsin, Amanullah, & Zakariyah, 2019). There are certain Shari'ah maxims that reveal the concept of risk.

8.1 Al-Ghurm Bi Al-Ghunm

The first maxim is the "al-ghurm bi al-ghunm", which means "no reward without risk" or "gain begets liability". This maxim describes that earning a profit is not legitimate without assuming loss or risk. Anyone who assumes profit is required to agree to take responsibility in case of loss. The investor or depositors must share liability to earn profit. The elimination of liability and sharing of profit alone is strictly prohibited by Islamic law. Also, it is prohibited to guarantee a profit by evading liability of loss (Waemustafa & Sukri, 2016). Lingually, the word ghurm means loss or damage, and precisely ghurm refers to the responsibility assumed by an individual for his financial loss. Linguistically, the word ghunm means profit, gain, or advantage, and technically means obtaining something, which was not owned before (Ikram, 2018).

This maxim clearly states that it is the mandatory responsibility of the owner of assets to afford the costs and all kinds of risks related to the ownership of that asset because he is the one who will get the end financial benefits from it. The non-owner is not entitled to take any type of benefits (Laldin, 2013). For instance, when an individual invests his capital in a business through an entrepreneur, the entrepreneur turns into a capital holder who equitably shares profit and risk with the capital provider. Both parties will enjoy the profit gained from this mutual business investment. In the same way, if the business faces any loss, both parties will have to suffer equitably. Therefore, the income is justified as fair based on equitable responsibility of risk between both parties (Agha & Sabirzyanov, 2015).

From this maxim, we can conclude that taking risks is permissible in Islamic law. Because the maxim can make a correlation among the usury (riba), sale (al-bay), and risk (ghurm). Allah stated in the Qur'an' Al-Baqarah versus no.275 "Allah has permitted trade and forbid riba". From this verse, it is clear that Allah encourages people to eliminate usury (riba) which bears no risk. On the other side, He also encourages people to trade (sale) with each other which is not risk-free. Thus, trade is legitimate because assuming risk-taking and profit from the loan (riba) denied the idea of risk-taking and sharing. Therefore, Islam permits a sale contract because a sale contract is not free from risk. Profit generated from the sale is the outcome of risk-taking, as the seller assumes the risks that the market for the goods exists, the goods are in good condition, and the price is right. Seller will lose their money if the market price is dropped below the cost or if the goods are damaged by natural calamities (Rosly, 2005). The second example is the musharakah contract where all partners are bound to share risks according to their capital contribution, implying that the partner that earns profit or is expected to earn must bear the losses when arsis. Thus, it provides a clear stance that Islam recognizes risk for justification of earning in any economic activities.

8.2 Al-Kharraj Bi Al-Daman

The maxim contains two Arabic words: kharraj and daman. Literally, the meaning of kharraj is return, yield, or revenue, and daman means liability, responsibility, or guarantee. In this maxim kharraj refers to yield, discreet benefits or corpus resulting from an owned asset, while daman specifically means to the liability or an asset in case it is damaged or destroyed (laldin, 2013). "The general meaning of this maxim is that the benefit of an asset is the right of the one (usually the owner) who indemnifies it if it is damaged. In other words, a person who is held liable in case an asset is damaged deserves to take its benefit or yield as compensation" (Ikram, 2018, p.33). A person who does not accept the liability of an asset is not allowed to receive any compensation or income from that asset as the Holy Prophet (P.B.U.H) forbids the income earned without assuming the risk or liability (Laldin, 2013).

This maxim is based on the following Hadiths.

Narrated from Aishah Radiyallahu 'Anha "A man bought a slave, and he remained with him as long as Allah wished him to remain. He then found a defect in him. He brought his dispute with him to the Prophet, and he returned him (the slave) to him (the seller). The man said: Messenger of Allah, my slave earned some wage. The Prophet (P.B.U.H) then said: Profit follows responsibility".

Abdullah bin Amr narrated that the Prophet (P.B.U.H) said, "It is not lawful to lend and sell, nor two conditions in a sale, nor to profit from what is not possessed, nor to sell what one does not have". The interpretation of this hadith describes that selling what one does not have means that it is not permissible to gain profit out of something that someone does not bear risk in it. Hence, the maxim concludes that assuming risk is essential in the business.

8.3 Harm must be eliminated

This maxim means that all types of harm should be prevented, minimized, and eliminated. The maxim is universal on harm elimination and based on the hadith "No harm shall be inflicted or reciprocated". There are subcategories of the maxim like "Harm may not be eliminated by its equivalent", "Harm should be avoided as much as possible", "To repel a public harm a private harm is preferred", "A greater harm is eliminated by tolerating a lesser one", "When two wrongful acts meet, the remedy of the greater is sought by the doing of the less", and "The smaller of two harms is chosen" and "Harm is repelled as far as possible".

These maxims provide general guidelines to prevent, minimize, and eliminate all types of harm (difficulties) confronted in daily life. It is construed as the prohibition of all actions that involve the notion of insulting, violating other's rights, irritating, overwhelming, or setting back some party's interests (Muhsin & Ali, 2020). Any type of 'Harm' that leads to either loss of life or wealth should be avoided in any possible way. Therefore, Islamic law strictly prohibits all activities or actions which impose risk to other people' life or property.

9. Conclusion

The article highlighted the Shari'ah philosophy of risk. The word mukhatarah is used for the term risk which means danger, or any action which leads to loss. Islamic scholars define risk in a way that is very much consistent with the view of conventional economists. They both defined risk in the negative sense and have consensus that eventually risk leads to loss. Some Islamic scholars have an opinion that the word gharar and risks are used interchangeably. Therefore, they defined gharar most likely with that of risk. They pointed out that both terms have the element of uncertainty. In a broad sense, the ultimate scope and outcome of risk and gharar are the same as each other, but specifically, the concept of risk is different from that of gharar. Gharar is the contractual uncertainty that exists in exchange transactions/dealings, which invalidate the contract. On the other side, risk exists naturally in every transaction and situation which must be assumed and cannot be avoided. Hence, risk cannot invalidate the contract.

It is noted that the protection of capital is one of the most important objectives of Shari'ah. Thus, Islam recognizes the general concept of risk. Various Qur'anic verses, Hadiths, and legal maxims document the general concept of risk indirectly and provide general guidelines about the identification and mitigation of risk. Islam clearly elucidates that any type of gain or profit without assuming the liability or risk for that is not allowed. Thus, it encourages its believers to trade with each other, assume and bear risk in business transactions. However, Islamic law strictly prohibits certain activities like gambling and throwing arrows, etc. Where profit is earned at the expense of the other party or earning of profit purely based on luck. Such types of activities do not create economic value and lead to disputes, hatred, speculation, and disturbance in society. Secondly, Islam prohibits the contract involving excessive gharar (uncertainty), where the parties do not know the subject of the matter, quality, quantity, and other characteristics of the subject. The main aim of these prohibitions is to save society from the risk of loss. Hence, it is concluded that Islam only prohibits certain activities that contain gharar and lead to harm and destruction, not the risk by itself. Shari'ah prohibits risk only in situations where the ultimate objective of risk management is to make money exclusively and involve restricted practices like gharar or riba. Thus, the forecasting and management of risk by taking proactive steps is permitted in permissible economic activities. Definably, the mitigation of risk is also consistent with the concept of protection of wealth, and value addition and then, in turn, it promotes economic activities and enhances socioeconomic stability in the society.

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