FROM GOLD TO PAPER:
The Applicability of Ribā to Modern Currencies in Shāfiʿī Jurisprudence

Yousef Aly Wahb

Abstract

This article examines the Shāfiʿī school's position on *ribā* in contemporary fiat currencies. It analyzes the definition of *ribā*, the underlying legal rationale for its prohibition (*ʿillah*), and engages with historical debates on the valuation of currencies and the applicability of *ribā* laws to non-gold-and-silver currencies (*fulūs*). By tracing the evolution of currency within Shāfiʿī jurisprudence from the 9th to the 20th century, the article identifies key trends among Shāfiʿī jurists regarding the legal characterization of bonds and paper money in the late 19th and early 20th centuries. The paper argues that the traditional Shāfiʿī exemption of *fulūs* from *ribā* laws is not absolute and does not solely depend on the physical attributes of the currency. Historically, Shāfiʿī jurists have emphasized the subjective value of gold and silver, owing to their longstanding roles as primary mediums of exchange. Furthermore, the potential for future currencies to share a similar legal basis for the prohibition of *ribā*—akin to that of gold and silver—is acknowledged, reflecting the adaptability of Shāfiʿī jurisprudence to evolving economic conditions.

Keywords: *ribā* – *ratio legis* - Shāfiʿī – gold and silver – *fulūs* – fiat money – currency

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Introduction

Scholarly debates continue to evolve regarding the interpretation of the prohibition of *ribā*, particularly in its application to contemporary financial practices such as interest-based transactions. While some scholars assert that interest-based lending forms the cornerstone of Islamic finance,[1] others argue that, although it may technically qualify as *ribā*, it diverges from the type of *ribā* explicitly condemned in the Qur'an and is not categorically prohibited by Islamic law.[2] Central to the debate is the identification of the *ratio legis* (*ʿillah*) of *ribā*'s prohibition and the types of monetary properties it governs. In exploring how the prohibition of *ribā* extends from traditional assets like gold and silver to various forms of currency, the Shāfiʿī school's analysis of the *ratio legis* has provided a unique perspective on what constitutes currency. Contemporary Islamic jurisprudence, marked by a multitude of currencies, is fraught with conflicting fatwas and inconsistent governmental policies. This complexity leaves

1. Muhammad Fadel, "Riba, Efficiency, and Prudential Regulation: Preliminary Thoughts," 25 Wis. Int'l L.J. 676 (2008), at 677–679 (providing an overview of the dominant view represented by Abū Zahra and al-Zuhaylī).

2. Ibid, 676. For an overview of the dissenting view represented by Rashīd Riḍā, ʿAbd al-Razzāq al-Sanhurī, and Mahmoud El Gamal, see 680–688.

the Islamic finance market struggling to apply the prohibition of *ribā* consistently across its diverse financial instruments.

The evolution of the international monetary system, from the Gold Bullion Standard in the 18th century to the predominance of fiduciary money in the 19th century, and the gradual departure from the Gold Exchange Standard by the late 20th century, prompted extensive deliberations among Muslim jurists regarding the applicability of *ribā* laws to modern fiat currencies. With the transition from gold and silver to fiat money, a modern approach argues that the laws of *ribā* may not apply to contemporary currencies. This perspective highlights the ritualistic aspect of the *ribā* prohibition as viewed by the Shāfiʿī school, contending that its applicability should be restricted to instances explicitly mentioned in the Qurʾān or Sunnah. Consequently, fiat currencies, not covered under the prohibitions associated with gold and silver, might be considered analogous to non-precious coins (*fulūs*). Given that the established position of the Shāfiʿī school does not extend *ribā* laws to *fulūs*, certain interest-based transactions could be deemed permissible in modern financial contexts.[3]

This article investigates the Shāfiʿī school's interpretation of the *ratio legis* behind the prohibition of *ribā* in relation to modern fiat currencies. It begins by contextualizing the historical discourse within the school regarding the relevance of the *ribā* framework to currencies not based on gold or silver. This discourse became prominent among Shāfiʿī jurists in Greater Khurasan during the 13th century, coinciding with a surge in transactions involving *fulūs*, which resulted in significant inflation. Fast forward to the 19th and 20th centuries, the article explores Shāfiʿī fatwas and scholarly works addressing *ribā*'s applicability to various forms of currency, including deposit receipts, banknotes, fiduciary money, and token money.

In this article, I argue that Shāfiʿī jurists did not exempt *fulūs* from the scope of *ribā* solely based on the physical properties of gold and silver. Instead,

3. In addition to the Shāfiʿī perspective on the *ratio legis* for the prohibition of *ribā* exclusively in gold and silver currencies, the minority view that modern paper money does not fall under the same regulations as traditional currencies is based on various contentious legal and economic augments. For a detailed summary of this position, see Mohammad Hashim Mahmoud, *al-Nuqūd fī al-sharīʿa al-Islāmiyya: iṣdāruhā wa tadāwuluhā*, 2 vols., (Cairo: Dār al-Iḥsān, 2019), 1:45–61. For a brief discussion on the differences between conventional banks interest and *ribā*, which supports the argument that today's paper money does not conform to the traditional definition of currency, see Ali Gomaa, "*Hal hunaka farq bayn al-fawāʾid al-bankiyaa war-ribā am anna ḥaqīqatahuma wāḥida?*," Nov. 7, 2016, available at: https://shorturl.at/jxDOT. The debate remains active and is frequently addressed at various fatwa and research forums such Al-Azhar's Islamic Research Council, the International Islamic Fiqh Academy, and the Deobandi Islamic Fiqh Academy. The issue continues to be a key topic at global Islamic banking conferences and in is extensively discussed in scholarly literature. *See also* Mahmoud, *al-Nuqūd fī al-sharīʿa al-Islāmiyya*, 62–7. For the purpose of this article, the discussion will primarily focus on assessing the relevance of the Shāfiʿī position in relation to the minority view.

they placed greater emphasis on the subjective value and practical utility of gold and silver within the prevailing economic conditions. The determination of *ribā*'s *ratio legis* in gold and silver within the Shāfiʿī school was influenced by the economic realities of the time, rather than solely rooted in theological or textual principles. Shāfiʿī jurists consistently disregarded the circulation of *fulūs* due to gold and silver's continued dominance as the primary medium of exchange, the inherent instability of *fulūs*, which lacked intrinsic value, and the transient representative status of bonds, notes, and paper money in the 19th and early 20th centuries. To grasp the modern application of Shāfiʿī reasoning in Islamic finance, it is imperative to meld legal principles of analogy with the historical economic and legal perspectives concerning *fulūs*.

I. A Brief History of the Global Monetary System

In ancient times, people relied on bartering or exchanging goods according to diverse customs and evaluation standards. As societies evolved, they transitioned to a more streamlined commodity money system, where certain essential goods were designated as prices for transactions. The challenges of storing and transporting goods prompted the adoption of metal as a more efficient medium of exchange: its high value, lightweight nature, and ease of storage made it a practical choice.

The introduction of currencies became essential to provide a standardized unit of account for calculations and to serve as a dependable store of value for conducting economic transactions across time and distance.[4] Gold and silver emerged as ideal candidates for these purposes due to their availability, affordability, durability, fungibility, portability, and reliability.[5] Throughout history, gold has consistently represented actual value, even as paper bills gradually replaced metals.[6] This is because the value of metal, including gold, fluctuates and is determined by economic utility and purchasing power rather than intrinsic worth.[7]

The earliest recorded use of gold being as a currency standard dates to approximately 630–643 B.C. in Lydia, located in present-day Turkey.[8] The Metallic Money System, which relied on gold and silver as universal measures of value, underwent various stages of development over time.[9] A significant

4. Niall Ferguson, *The Ascent of Money: A Financial History of the World* (New York: The Penguin Press, 2009), 24.

5. Ibid, 24–25.

6. Christopher M. Bruner, "The Changing Face of Money," 30 Wash. and Lee Rev. 386–387 (2010–2011).

7. See Adam Smith, *An Inquiry Into The Nature and Causes of The Wealth of Nations*, ed W.B. Todd, (Oxford University Press, 1997).

8. Eoin Macdonald, "Nature and History of Gold" in the *Handbook of Gold Exploration and Evaluation* (Cambridge: Woodhead Publishing, 2007), 1.

9. For more on the development of the metallic money system from an Islamic law

turning point occurred in the 1970s when the United States faced a crisis related to the value of the dollar, leading to the suspension of dollar conversion into other currencies. This action triggered heated debates surrounding the constitutionality of Congress' authority to establish a national paper currency, amid fears of hyperinflation resulting from excessive money printing.[10] These deliberations reached a climax on August 15th, 1971, when the United States opted to abandon the gold standard. Consequently, the federal government ceased the redemption of dollars for gold, severing "the centuries-old link between money and precious metal."[11] In 1974, the International Monetary Fund (IMF) introduced Special Drawing Rights (SDRs) as an alternative to the gold standard. SDRs grant member countries the right to draw specific amounts of various currencies, based on the value of a specific weight of gold, to settle their debts with foreign nations.

As a result, currencies became detached from gold and began fluctuating in value relative to one another, representing a virtual purchasing power. However, even in times of financial crisis, gold retains significance as the most stable monetary reserve. For this reason, many countries continue to rely on gold to bolster their economic stability. The abandonment of the gold standard does not diminish its economic influence or its deep connection to certain legal traditions. As I will demonstrate, some Shāfiʿī jurists attributed an objective value to gold and silver as set by God. This theological conception is the backdrop for classical Islamic financial laws, which are intricately linked to gold and silver. Despite the move away from the gold standard, there have been occasional calls for its return to prevent inflation and reduce trade deficits.[12]

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perspective, see Muḥammed Taqī al-ʿUthmānī, *Buḥūth fī qadāyā fiqhiyyah muʿāṣirah*, 2 vols., (Qatar: Wizārat al-Awqāf wa-l-Shuʾūn al-Islāmiyya, 2012), 1:143–9 (the fifth research paper "Aḥkām al-awrāq al-naqdiyyah wa taghayyur qīmat al-ʿumlah wa rabṭuhā bil-asʿār" presented to the fifth conference of Mujammaʿ al-Fiqh al-Islāmī in 1988). Al-ʿUthmānī developed his paper based on several resources including Geffrey Crowther, *An Outline of Money*, 1st ed., (London: Nelson, 1940); Elgin Groseclose, *Money and Man: A Survey of Monetary Experience*, 4th ed, (Norman: University of Oklahoma Press, 1934); S.M. Akhtar & Kewal Dewett, *Modern Economic Theory* (Delhi-Lahore: S. Chand & CO., 1946); "Modern Monetary Systems," in the *Encyclopedia Britannica* (Encyclopedia Britannica, inc.), https://www.britannica.com/topic/money/Modern-monetary-systems.

10. See Juilliard v. Greenman, 110 U.S. 421, 462–63 (1884) (J. Field dissented over the constitutional authority for the federal government to create paper money, arguing that paper could not replace metals as "a standard of value" because it lacks the practical intrinsic attributes of metals, which "are not dependent upon legislation" and "cannot be manufactured or decreed into existence.")

11. Ferguson, *The Ascent of Money*, 59.

12. See for example, Lawrence H. White, "Making the Transition to a New Gold Standard," *Cato J* 32, 2 (2012); Bruner,

"The Changing Face of Money."

II. Ribā: A Primary Principle of Islamic Finance

The prohibition of *ribā* is firmly established in Qurʾānic verses, prophetic traditions, and scholarly consensus.[13] Some Muslim scholars suggest that *ribā* was also forbidden in religions predating Islam.[14] Among Shāfiʿī jurists, opinions vary on the intertextual status of the verses prohibiting *ribā*. Many considered these verses to be ambiguous (*mujmal*), necessitating clarification from the Sunnah to determine the specific types of transactions *ribā* encompasses.[15] Others, including Abū Ḥāmid al-Marwazī (d. 362/973), argued that the Qurʾānic prohibition addresses conventional *ribā* practices prevalent in the pre-Islamic era, such as inequitable exchanges or interest-based loans, and maintained that the Sunnah explicitly included spot trading in its prohibition.[16]

Ribā has been extensively translated and defined in modern scholarship, often described as "unjust enrichment."[17] The inherent unfairness of *ribā* is not always evident to those participating in such transactions. Specifically, certain dealings—definitively those involving *ribā* in the pre-Islamic era, and presumptively those involving excess and delay—are legally classified as unjust enrichment. This classification applies irrespective of the parties' consent, level of sophistication, or awareness. As a result, these transactions are excluded from the realm of permissible market activities, even though some traders may view them favorably.[18]

Additional definitions of *ribā* include "unlawful advantage by way of excess or deferment."[19] However, it is crucial to note that the concept of *ribā* is not synonymous with "interest," and "even the most conservative contemporary jurists do not consider all forms of what economists and regulators call interest to be forbidden *ribā*".[20] These varying definitions underscore different

13. For an overview of *ribā* across the different legal schools, see Hiroyuki Yanagihashi, *A History of the Early Islamic Law of Property: Reconstructing the Legal Development 7th-9th Centuries* (Leiden & Boston 2004); Abdullah Saeed, *Islamic Banking and Interest: A Study of the Prohibition of Riba and its Contemporary Interpretation* (Leiden: Boston et al. 1999); Frank Vogel & Samuel Hayes, *Islamic Law And Finance: Religion, Risk, and Return* (Kluwer Law International, 1998).

14. Abū al-Ḥasan al-Māwardī, *al-Ḥawī al-kabīr*, eds ʿĀdil ʿAbd al-Mawjūd and ʿAlī Muʿawwaḍ, 1st ed, 11 vols., (Beirut: Dār al-Kutub al-ʿIlmīyah, 1994), 5:74; ʿAbdel Razzāq al-Sanhūrī, *Maṣādir al-ḥaqq fī al-fiqh al-Islāmī* (Cairo: Manshūrāt al-Ḥalabi al-Ḥuqūqiyya, 1998), 3:216–9.

15. Al-Māwardī, *al-Ḥawī*, 5:74. Al-Juwaynī also held the same opinion. ʾAbdel Malik al-Juwaynī, *Nihāyat al-maṭlab fī dirayāt al-maḏhahab*, ed ʾAbdel ʾAzīm al-Dīb, 1st ed., 20 vols. (Beirut: Dār al-Minhāj, 2007), 5:64.

16. Al-Māwardī, *al-Ḥawī*, 5:74.

17. Vogel & Hayes, *Islamic Law And Finance*, 84.

18. Fadel: "Riba, Efficiency," 693.

19. Nabil Saleh, *Unlawful Gain and Legitimate Profit in Islamic Law: Riba, Gharar and Islamic Banking* (London: Graham & Totman, 1992), 11.

20. Mahmoud El-Gammal, *Islamic Finance: Law, Economics, and Practice* (Cambridge University Press, 2008), 51–52.

conceptualizations of the underlying reasons for the prohibition of *ribā*, emphasizing the importance of ascertaining its *ratio legis* from classical debates.

In general, *ribā* encompasses two main aspects: 1) the exchange of identical goods in differing quantities, and 2) interest-bearing loans. Contemporary jurists have debated the application of *ribā* to modern financial transactions such as interest, prepayments, and mortgages, which may seem distinct from traditional definitions and rulings under Islamic law. The foundational basis for the prohibition of *ribā* originated in trading gold and silver in unequal quantities. Interest-bearing loans were traditionally associated with gold and silver, as these metals were the primary mediums of exchange. Despite the unequivocal prohibition of *ribā*, there remains significant disagreement among Muslim jurists regarding its particular instances and applications. As the Shāfiʿī jurist al-Māwardī (d. 450/1058) stated, "Muslims agreed on the prohibition of *ribā*, even though they differ on its branches (*furūʿ*) and the extent of its prohibition."[21]

Most discussions in Islamic law concerning money are "preoccupied with *ribā* and how to avoid it."[22] The prohibition of *ribā* is seen as a matter of "material" justice, involving ethical considerations rather than purely technical ones, as noted by Max Weber.[23] However, the prohibition can clash with practical economic needs by imposing limitations on trading activities. For instance, it could hinder the free exchange of currencies, particularly in transactions like the exchange of gold for gold or silver for silver.[24] While the doctrinal principles regarding *ribā* were established early in the development of Islamic law, jurists were not oblivious to practical economic demands. They recognized the gap between theoretical and practical realities and sought ways to bridge it. This involved acknowledging the importance of balancing ethical principles with the needs of a functioning economy.

A. The Shāfiʿī definition of ribā

The Arabic word *ribā* literally means an 'increment' or 'increase.' In Islamic jurisprudence, it refers to various forms of excessive or unconscionable gain, a concept uniquely characterized by each school of law. The Shāfiʿī school has articulated multiple definitions for *ribā*. Through centuries of legal analysis and examination of *ribā*-related transactions, the school has converged on a specific definition consistently cited in its authorized manuals and treatises. The earliest reference to this definition can be traced back to al-Rūyānī (d. 502/1109), as cited by Taqī al-Dīn al-Subkī (d. 756/1355):

21. Al-Māwardī, *al-Ḥawī*, 5:47.
22. Norbert Oberauer, "Money in Classical Islam: Legal Theory and Economic Practice," 25 Islamic L. & Soc'y 425 (2018).
23. Ibid, 465.
24. Ibid, 465.

> An agreement to exchange one specific item for another when their equivalence is unknown, as determined by the standards of the sacred law at the time of the transaction, or in cases where there is a delay in the delivery of either or both items.[25]

After quoting al-Rūyānī's definition, al-Subkī comments, "this is a sound way of defining it, whether it is understood literally or metaphorically."[26]

Ribā can be characterized by three essential elements, all of which must be present for the prohibition to apply. First, the term "specific" restricts the prohibition to exchanges involving particular commodities such as foodstuffs, gold, or silver, as explicitly stated in a hadith. Second, the term "unknown equivalence" refers to an increase in one of two homogenous equivalents (i.e. gold for gold or wheat for wheat) without fair compensation for this increase. Third, the term "standards of the sacred law" limits the prohibition to transactions involving items of the same type.

The basis for the prohibition of *ribā* in specific categories of commodities is the prophet's statement, "Gold is to be paid for by gold, silver by silver, wheat by wheat, barley by barley, dates by dates, and salt by salt, like for like and equal for equal, payment is made hand to hand. If these classes differ, sell as you wish if payment is made hand to hand."[27] This hadith primarily governs sales transactions and is specifically applicable to the six enumerated items.

The juristic framework that regulates transactions potentially falling under the definition of *ribā* includes at least three types of transactions:

1. *Ribā al-Faḍl*: when one of the exchanged items exceeds the other, even though both items are of the same kind (for example, selling one ounce of gold for two ounces of gold);
2. *Ribā al-Nasā*: when one of the exchanged items will be owed or delayed to a later time; and
3. *Ribā al-Yad*: when there is a delay in taking possession of one or both items before leaving the location where the transaction took place, even if the delay was not initially stipulated.

Post-classical Shāfiʿī jurists debated whether loans in which the lender gains a benefit exceeding the monetary value loaned (*ribā al-qarḍ*) should be considered a distinct prohibited category, or if they are simply a subset of *ribā al-faḍl*. The argument supporting the view that *ribā al-qarḍ* is a separate category,[28] as initially posited by al-Mutawallī (d. 478/1086),[29] is that *ribā al-qarḍ*

25. Taqī al-Dīn al-Subkī, *Takmilat al-majmūʿ sharḥ al-muhadhdhab lil-Shīrāzī*, ed. Najīb al-Muṭīʿī, 23 vols. (Jeddah: Maktabat al-Irshād, 1980), 10:25. It is worth noting that the definition is not found in al-Rūyānī's extensive printed work, *Baḥr al-madhhab*.

26. Al-Subkī, *Takmilat al-Majmūʿ*, 10:25.

27. Saḥīḥ Muslim, no. 1584.

28. Abdullāh ibn Ḥijāzī al-Sharqāwī, *Ḥāshiyat al-Sharqāwī ʾalā tuḥfat al-ṭullāb bi-sharḥ taḥrīr tanqīḥ al-lubāb* (Cairo: Mostafa al-Ḥalabī, n.p.), 2:31.

29. Zakariyā al-Ansārī, *Asnā al-maṭālib sharḥ rawḍ al-ṭālib*, ed Muḥammad Tāmir, 2nd

applies broadly to exchangeable items, whereas *ribā al-faḍl* pertains specifically to the six categories mentioned in the hadith. This inclusion of *ribā al-qarḍ* challenges the comprehensive nature of *ribā*'s definition, suggesting that the definition should be contextually applied to specific categories rather than understood as a universal concept.[30] This debate over *ribā al-qarḍ* underscores a critical distinction between Islamic law, where sales form the basis of *ribā* contracts, and other modern legal systems, where the concept primarily revolves around loans.

III. The Ratio Legis (ʿillah) Behind the Prohibition of Ribā

To delineate the scope of religious law, it is customary to assess whether a given obligation or prohibition can be rationalized independently of divine revelation. If it cannot, the law may be intended primarily as a test of devotion, assessing individuals' servitude to God. Al-Ghazālī (d. 505/1111) categorizes the purposes for religious law into three types: 1) purely devotional (such as the obligation to stone Satan during the Pilgrimage), 2) purely rational (such as the obligation to repay one's debts), or 3) both devotional and rational (such as the obligation to pay *zakāh*).[31] The third purpose is somewhat ambiguous, as it combines rational benefit with the intent to test an individual's devotion to God.

If the purpose of religious law is purely devotional, its applicability is confined to its prescribed domain. Al-Juwaynī (d. 478/1085) characterizes the nature of acts of worship as follows:

> Rituals are not acts of worship for their essence or substance, nor are they distinguished by their inherent qualities. Rather, they hold values as acts of obedience insofar as they conform to God's commands within their prescribed times. [For instance,] if the servant [of God] performs the obligatory prayer with utmost submissiveness, humility, and serenity before its designated time, it would not suffice [to fulfill the obligation] . . . [Similarly,] if a person in a state of ritual impurity (*ḥadath*) were to perform the prayer, their action would be considered vile.[32]

On the other hand, if the purpose of religious law is to achieve a rational benefit, jurists may extend its application through legal analogy to similar cases that share the same underlying rationale. However, not every rational benefit qualifies as a legal cause for such analogy, as the underlying wisdom (*ḥikmah*) of the law might be latent or irregular. For example, while consent is generally recognized in contractual agreements, it does not necessarily constitute the *ratio legis* of a particular law. Al-Juwaynī points out that Islamic law may override the contracting parties' consent and impose restrictions on transactions to safeguard

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ed., 9 vols. (Beirut: Dār al-Kutub al-ʿIlmiyah, 2012), 4:51.

30. Al-Sharqāwī, *Ḥāshiyat al-sharqāwī*, 2:31.

31. Abū Ḥāmid al-Ghazālī, *Iḥyā ʾulūm al-dīn*, 1st ed., 10 vols., (Jedda: Dār al-Minhāj, 2011), 2:26–29.

32. ʾAbdel Malik al-Juwaynī, *al-Ghiāthī*, ed ʾAbdel ʾAzīm al-Dīb, (Jeddah: Dār al-Minhāj, 2011) 452–3.

the interest of either party or to uphold the value of precaution. Some of these objectives are rationalized, while others are not.[33] The distinction between *ratio legis* and *ḥikmah* is critical, as only the former can serve as the basis for extending a ruling to a new case through analogy.

The strength of the *ratio legis* depends on several characteristics, including its consistency, regularity, clarity, and co-extensiveness. There are different ways to identify a *ratio legis*, including an a) explicit mention in the same text that contains the ruling, b) implicit indication within the text, or c) juristic derivation from the text. The third type is most prone to differing opinions. A derivative *ratio legis* can be identified by assessing the *ratio legis*' apparent suitability (*munāsabah*) to the rule of law (e.g., considering the impairment of intellect for the prohibition of intoxicants) or by examining and isolating qualities that are attributable to the ruling (*sabr wa taqsīm)*. While it is assumed that every *ratio legis* is based on an underlying rationale, legal theorists recognize that some *ratio legis* may not be discernable, with examples such as the *ratio legis* for the prohibition of *ribā* in foodstuffs and gold and silver.[34] However, any degree of association between a *ratio legis* and its underlying rationale is deemed sufficient for the *ratio legis* to be considered valid and beyond question.

According to the Shāfiʿī school, the law prohibiting *ribā* in all its forms is considered purely devotional. Both Ibn Ḥajar al-Haytamī (d. 974/1566) and Shams al-Dīn al-Ramlī (d. 1004/1596), in their authoritative commentaries on al-Nawawī's (d. 676/1277) *al-Minhāj*, stated, "The prohibition of *ribā* is a matter of ritual, and any reasoning about it pertains to its wisdom, not its *ratio legis*."[35] To them, explanations that detail the social or individual harms of *ribā* merely articulate the *ḥikmah* behind its prohibition, rather than its effective legal cause. Ibn Qāsim al-ʿAbbādī (d. 992/1584) added that understanding the wisdom behind *ribā* does not change its purely devotional nature, as a devotional act is characterized by the absence of a discernible reason.[36] Al-Shabrāmallisī (d. 1087/1676) and al-Sharawānī (d. 1301/1884) also supported the views of al-Ramlī and al-Haytamī, respectively, defining a devotional act as one lacking an ostensible *ratio legis* behind the ruling, even if it possesses apparent wisdom.[37]

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33. Ibid, 541.

34. Jalāl al-Dīn al-Maḥallī, *al-Badr al-ṭāliʿ fī ḥall jamʿ al-jawāmiʿ*, ed. Murtaḍā al-Dāghistānī, 2 vols., (Beirut: Risala Foundation, 2012), 2:202–3; Ḥasan al-ʿAṭṭār, *Ḥāshiyah ʿalá jamʿ al-jawāmiʿ*, 2 vols., (Cairo: Dār al-Baṣāʾir, 2009), 2:282–84.

35. Ibn Ḥajar al-Haytamī, *Tuḥfat al-muḥtāj bi-sharḥ al-minhāj*, ed Anwar al-Dhāghistanī, 1st ed, 10 vols., (Kuwait: Dār al-Ḍiyā, 2020), 4:410; Shams al-Dīn Muḥammad ibn Aḥmad al-Ramlī, *Nihāyat al-muḥtāj ilā sharḥ al-minhāj*, 3rd ed, 8 vols., (Beirut: Dār al-Kutub al-ʿIlmiyah, 2003), 3:424.

36. ʾAbdulḥamīd al-Sharawānī & Ibn Qāsim al-ʿAbbādī, *Ḥawāshī al-Sharawānī wal al-ʿAbbādī ʿalā tuḥfat al-muḥtāj bi-sharḥ al-minhāj*, ed Anas al-Shāmī, 11 vols., (Cairo: Dār al-Ḥadith, 2016), 5:274.

37. Al-Sharawānī & al-ʿAbbādī, *Ḥawāshī*, 272; Abū al-Ḍiyā ʾAlī ibn ʾAlī

As a devotional rule, the scope of the prohibition of *ribā* is strictly limited by the hadith and does not extend to other items that might otherwise be inferred through analogical reasoning.

The Shāfiʿī stance on the prohibition of *ribā* emphasizes its devotional and ritualistic purpose, setting it apart from views that see Islamic transactional laws, including those prohibiting *ribā*, as primarily aimed at promoting the secular welfare of individuals.[38] This perspective questions the sufficiency of historical justifications used throughout Islamic history and proposes an alternative understanding of Islamic transactional laws as functional, rather than being strictly bound to normative religious texts.[39] In contrast, Shāfiʿī jurists uphold a commitment to the ritualistic nature of religious law, guided by theological principles concerning wealth and sustenance that go beyond secular notions of welfare, while also pragmatically considering the real-life implications of these laws.

A. The *ratio legis* for the prohibition of the two universal types of *ribā*

While the Shāfiʿī school recognizes the ritualistic purpose of prohibiting *ribā*, it also categorizes the six items listed in the hadith into two groups: money (gold and silver) and foodstuffs (wheat, barley, dates, and salt). Accordingly, the ritualistic prohibition confines the scope to these two categories, thereby preventing items that are neither money nor food from falling under the prohibition. Thus, the Shāfiʿī school does not identify a unviersal *ratio legis* for the general prohibition of *ribā* but ascertains a *ratio legis* for each of the two categories—foodstuff and money. This distinction enables the extension of the prohibition to other types of crops or monetary properties through analogical reasoning.

By segmenting these two categories from the six subcategories provided by the prophet as examples, the school permits a limited scope for analogical reasoning in interpreting devotional rulings. To illustrate this two-layered framework, the Shāfiʿīs reference the role of analogy in interpreting the four ritualistic nullifiers of ablution (*wuḍū*):[40] whatever comes out from the two waste passages, touching a marriageable person of the opposite gender, touching private parts, and the loss of intellect. While these causes for minor impurity are ritualistic in nature, analogical reasoning can nonetheless extend 'loss of intellect' to include states such as sleep, coma, and intoxication.[41]

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al-Shabrāmallisī, *Ḥāshyia ʿalā nihāyat al-muḥtāj ilā sharḥ al-minhāj*, 3rd ed, 8 vols., (Beirut: Dār al-Kutub al-ʿIlmiyah, 2003), 3:424.

38. Fadel: "Riba, Efficiency," 688.

39. Ibid, 701.

40. Sulaimān ibn ʿUmar al-Bujairamī, *Tuḥfat al-ḥabīb ʿalā sharḥ al-khatīb* (Beirut: Dār al-Kutub al-ʿIlmiyya, 1996), 3:296–297; al-Sharqāwī, *Ḥāshiyat al-Sharqāwī*, 2:30.

41. The *ratio legis* of the prohibition of *ribā* in foodstuffs is their edibility (*ṭuʿmiyyah*). An earlier position of the school, which is no longer authorized, considered both edibility and measurability (*taqdīr*) as the ratio legis. Al-Juwaynī, *Nihāyat al-Maṭlab*, 5:65–66. Edibility is a regular quality (*waṣf munḍabiṭ*) that can be assessed independently from law. It is a common

B. The *ratio legis* for the prohibition of *ribā* in gold and silver

An early opinion within the Shāfiʿī school, reported by al-Mutawallī, and described as "weak and uncommon" by Al-Nawawī,[42] suggests that the prohibition of *ribā* in gold and silver has no underlying cause; it is attributed solely to their essence. Shāfiʿī jurists rejected the opinions held by other schools that the *ratio legis* for their prohibition is based on weight or volume (*wazn*) in identical items. This perspective would permit deferred delivery contracts (*salam*) involving weighable goods to be conducted using gold or silver, thus undermining the effectiveness of the mentioned *ratio legis*.[43]

The majority of Shāfiʿī jurists concur that a *ratio legis* for gold and silver can be identified, although there is disagreement on its exact nature. The varied views include characterizing it as (i) the items used for determining prices, perceived to have marginal utility (*gawhariyyat al-thaman* or *jins al-thamān*), which is the formally authorized opinion, (ii) the value of consumables (*qiyam al-mutlafāt*), or (iii) the value of things in general (*qiyam al-ashyāʾ*). These three perspectives, which will be explored further below, are responsive to the economic realities of their respective eras and are based on evolving theories of the nature and utility of currency.

The widely recognized and authoritative opinion within the Shāfiʿī school is that the *ratio legis* for the prohibition of *ribā* in gold and silver lies in their function as 'items used for determining prices, perceived to have marginal utility'. The relevant terms are *gawhariyyat al-thaman* or *jins al-thamān* and *thamaniyyah*. While statements of al-Samʿānī (d. 489/1166), Asʿad al-Mīhanī (d. 527/1132) and al-Rāfiʿī (d. 623/1226) suggest that *gawhariyya* and *thamaniyyah* are synonymous, Tāj al-Dīn al-Subkī (d. 771/1370) distinguished between these terms:

> *Thamaniyyah* refers to an item [that] is commonly used in transactions. Jewelry, although being a *ribā* commodity, does not possess this quality of *thamaniyyah.* Therefore, if *thamaniyyah* is considered the *ratio legis*, it would not encompass all instances of the *ribā* ruling . . . [On the other hand,] *gawhariyya* refers to any commodity predominantly used as a medium of exchange. [44]

Al-Subkī argued that *gawhariyya* represents the more precise *ratio legis*, a view also supported by al-Ghazālī and other "skilled jurists (*muḥaqqiqīn*)."[45]

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example of an inherent quality (*waṣf ḥaqīqī*) in legal theory works. This article focuses on the *ratio legis* of the prohibition of *ribā* as it relates to money.

42. Yaḥyā ibn Sharaf al-Nawawī, *al-Majmūʿ sharḥ al-muhadhdhab lil-Shīrāzī*, ed. Najīb al-Muṭīʿī, 23 vols., (Jeddah: Maktabat al-Irshād, 1980), 9:493; Yaḥyā ibn Sharaf al-Nawawī, *Rawḍat al-ṭālibīn wa ʿumdat al-muftīn*, ed Zuhair Shāwīsh, 3rd ed, 12 vols., (Beirut: al-Maktab al-Islāmī, 1991), 3:379–380; al-Sharawānī & al-ʿAbbādī, *Ḥawāshī*, 5:285.

43. Al-Nawawī, *al-Majmūʿ*, 9:490–1.

44. Tāj al-Dīn al-Subkī, *Rafʿ al-ḥājib an mukhtaṣar Ibn al-Ḥājib*, eds ʿĀdil ʿAbd al-Mawjūd and ʿAlī Muʿawwaḍ, 1st ed, 4 vols., (Beirut: ʿAlam al-Kutub, 1991), 4:182–3.

45. Ibid; Abū Ḥāmid al-Ghazālī, *Taḥṣīn al-maʾākhidh*, ed ʿAbdelḥamīd al-Mijallī, 4

Moreover, al-Nawawī affirmed the majority opinion, describing it as the correct phrase adopted by the colleagues (*aṣḥāb*),[46] and corroborated by an explicit statement from al-Shāfiʿī himself.[47] The term "for the most part" (*ghāliban*) is often included to account for scenarios where other forms of currency are equally or more prevalent than gold and silver.

Some Shāfiʿī jurists maintained that the *ratio legis* in the case of gold and silver relates to the value of consumables (*qiyam al-mutlafāt*), a view that al-Māwardī found not to differ significantly from the authorized opinion.[48] Another minority opinion presented by Abū Isḥāq al-Shīrāzī (d. 476/1083) posits the *ratio legis* as 'the value of things' (*qiyam al-ashyāʾ*).[49] This view, attributed to a number of early Shāfiʿīs, faces criticism, including from al-Shīrāzī's contemporary Abū al-Ṭayyib al-Tabarī (d. 450/1058).[50] Critics argue that *ribā* can apply to items such as golden or silver containers, dust, and ornaments, which are not primarily used as monetary value.[51]

Nonetheless, later jurists, such as Ibn al-Naqīb al-Miṣrī (d. 769/1368), continued to describe the *ratio legis* as 'things by which things are valued'. ʿUmar al-Biqāʿī (d. 1313/1895) sought to align al-Miṣrī's statement with the majority opinion, clarifying, "it means that things cannot be obtained or exist without gold and silver, and their exchange in sales delineates the category of items used for determining prices (*athmān*)."[52] This interpretation echoes the aforementioned criticism regarding al-Shīrāzī, emphasizing that *ribā* applies to items like "gold and silver dust, currencies, jewelry, containers, . . . "[53] Furthermore, it is conceivable that al-Nawawī's criticism of al-Shīrāzī's view was prompted by the latter's assertion that *ribā* is prohibited in gold and silver solely based on their role as the value of things.

Notably, within these discussions, some later Shāfiʿī jurists were reluctant to use the term *ratio legis* in a technical sense, preferring to describe them as mere wisdoms behind the rules. This approach serves two purposes. Firstly,

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vols., (Kuwait: Asfār, 2018), 2:340–48.

46. *Al-aṣḥāb* is a term for the early Shāfiʿī specialists, between 2nd and 5th century, who examined al-Shāfiʿī's statements, weighed between various positions in the school, and extended them to new precedents, also known as *aṣḥāb al-wujūh*.

47. Al-Nawawī, *al-Majmūʿ*, 9:493.

48. Ibid.

49. Abū Isḥāq Ibrāhīm ibn Yūsuf al-Shīrāzī, *al-Tanbīh fī al-fiqh al-Shāfiʿī*, ed Markaz al-Abḥāth wal-Khadamāt al-Thaqāfiyya, 1st ed, (Riyadh: ʿAlam al-Kutub, 1983), 90.

50. Abū al-Ṭayyib al-Ṭabarī, *al-Taʿlīqa al-kubrā sharḥ mukhtaṣar al-Muzanī*, ed Abū Yaʿqūb Nashʾat al-Miṣrī, 24 vols., (Markaz Majmaʿ al-Baḥrayn lil-Taḥqīa wal-Baḥth al-ʿIlmī, 2021), 2:481. Al-Ṭabarī considered both expressions of the *ʿillah*, *qiyam al-ashyāʾ* and *qiyam al-mutlafāt*, to be incorrect.

51. Al-Nawawī, *al-Majmūʿ*, 9:493.

52. ʿUmar Barakāt al-Biqāʿī, *Fayḍ al-ilāh al-mālik fī ḥall alfāẓ ʿumdat al-sālik wa ʿudat al-nāsik*, ed Musafā ʿEmarāh, 2 vols., (Cairo: Mustafā al-Ḥalabī, 1952), 2:10

53. Ibid.

it aligns the stated causes with the view that the prohibition of *ribā* is primarily rooted in ritualistic aspect, a perspective supported by Burhān al-Dīn al-Ḥalabī (d. 1044/1635)[54] and Muḥammad al-ʿAshmāwī (d. 1167/1753).[55] Secondly, as noted by al-Qalyūbī (d. 1069/1658) and others, it restricts the application of *ribā* to commodities traditionally used for price setting,[56] thereby preventing its extension to other commodities. Consequently, the specific wisdom behind prohibiting *ribā* in gold and silver does not directly stem from the concept of *thamaniyyah*.

Despite being commodities that can be bought and sold, Shāfiʿī jurists emphasized the subjective value of gold and silver, independent from their metallic composition, utility, or the labor involved in their production. This emphasis stems primarily from their significant role as widely circulated currencies throughout history. Consequently, the school permits transactions involving adulterated gold or silver coins (*naqd maghsūsh*),[57] which retain their status as currency despite altered values. *Naqd maghshūsh* "was not a clear-cut category, as the jurists did not specify a degree of fineness that would distinguish adulterated coins from pure ones."[58] This lack of specificity in defining what constitutes an adulterated coin underscored the nuanced nature of the market situation.

Al-Nawawī justified the permissibility of conducting transactions with adulterated *dirhams*, whose precise silver content is unknown, by highlighting their importance in circulation.[59] This framework, which standardizes a category of items for price determination, coupled with an emphasis on their circulation, has led some modern scholars to interpret the Shāfiʿī school's position as being rooted in socioeconomic considerations. This stands in contrast to the more formalistic approach seen in the Ḥanafī position.[60]

54. Al-Ḥalabī remarked that both Zakariyā al-Ansārī and Ibn Ḥajar al-Haytamī warranted the purported contradiction and rebutted it by stating the *ḥikmah*. See, Suleimān al-Jamal, *Ḥāshiyat ʿalā sharḥ al-manhaj*, 5 vols., (Beirut: Dār Iḥyā al-Turāth al-ʿArabī, n.d.), 3:46.

55. Al-Bujairamī approvingly attributes this reasoning to his teacher al-ʿAshmāwī. Al-Bujairamī, *Tuḥfat al-Ḥabīb*, 3:300.

56. Al-Qalūbī's statement is quoted by al-Bujairamī. Ibid. Shaykh ʿAwaḍ (d. unknown) added a similar remark in his notes (*taqrīr*) on al-Shirbīnī's commentary on Ibn al-Qasim. See his *taqrīr* printed in Shams al-Dīn Muḥammad ibn Aḥmad al-Khaṭīb al-Shirbīnī, *al-Iqnāʿ fī ḥall alfāz Abī Shujāʿ*, 2 vols., (Cairo: al-Maṭbaʿah al-Khayriyya bi Miṣr, 1903), 2:7.

57. Al-Nawawī, al-Majmūʿ, 5:496–498.

58. Oberauer, "Money in Classical Islam," 438.

59. Ibid, 5:497.

60. Al-Sanhūrī, *Maṣādir al-ḥaqq*, 3:201–4.

IV. Extending the Legal Rationale of Gold and Silver to Other Forms of Currency

While legal analogy relies on clearly identified *ratio legis*, not every *ratio legis* supports the extension of a legal rule to a new case. This concept of inextensible *ratio legis* (*ʿillah qāṣirah*) is defined as "a *ratio legis* that does not extend beyond the specific scope mentioned in the text."[61] A *ratio legis* is considered inextensible if it: i) precisely defines the locus of the rule (*maḥal al-ḥukm*), ii) embodies a necessary and unique quality of the rule that other rules do not share (*waṣf lāzim*), or iii) represents a unique aspect of the rule that is not common to other rules (*juzʾ khāṣṣ*).[62] In the case of the prohibition of *ribā* in gold and silver, the *ratio legis* qualifies under the first two categories: gold and silver serve as the specific objects of the rule (*maḥal al-ḥukm*) and possess an essential attribute (*waṣf lāzim*) as the value-based standard for transactions.[63] This framework of inextensible *ratio legis* is widely accepted by most Shāfiʿī legal theorists.

Some legal theorists argue that identifying the cause of a law is unnecessary if its applicability is inherently limited.[64] Conversely, others highlight several advantages of recognizing an inextensible *ratio legis*, including rationalizing its appropriateness to the law, enhancing clarity regarding its textual foundation, encouraging adherence to the law, and increasing the eschatological reward for those who consciously abide by its laws.[65] Al-Ṭabarī attributed practical utility to both types of *ratio legis*, stating that while an extensible *ratio legis* unifies and harmonizes instances sharing its meaning, an inextensible *ratio legis* precisely defines its specific instance and distinguishes it from other similar cases.[66]

Within the Shāfiʿī school, there are two views regarding the functionality of an inextensible *ratio legis*: 1) it is considered invalid, thus making it inapplicable for use in analogy, and 2) it may be valid, but an extensible *ratio legis* should be given precedence. Both views are subjected to criticism from those, such as the Ḥanafīs, who believe that the *ratio legis* for gold and silver is based on their weight. These critics argue that the identification of an inextensible *ratio legis* for this is redundant since the original prohibition of *ribā* in gold and silver is already well-established by textual evidence.[67]

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61. Al-Maḥallī, *al-Badr al-ṭāliʿ*, 2:203.
62. Ibid.
63. For example, the nullification of *wuḍū* occurs when something exits from either of the two waste passages, due to its emergence from these locations.
64. Some jurists negated its existence entirely while the Hanafīs denied the existence of one that is not established based on a textual or consensus authority. Al-Maḥallī, *al-Badr al-ṭāliʿ*, 2:202. This does not necessarily assume that the former position denies the *ʿillah* established by the text. Al-ʿAṭṭār, *Ḥāshiyah ʿalá jamʿ al-jawāmiʿ*, 2:282.
65. Al-Maḥallī, *al-Badr al-ṭāliʿ*, 2:203.
66. Al-Ṭabarī, *al-Taʿlīqa al-kubrā*, 2:484.
67. Al-Nawawī, *al-Majmūʿ*, 9:490.

Al-Nawawī addressed the Ḥanafī critique by pointing out an additional benefit of identifying an inextensible *ratio legis*: "There is a possibility that a similar *ratio legis* to the original case might arise [in the future], and in that case, it should be considered together in making a ruling."[68] This approach recognizes the potential for the same *ratio legis* to manifest in different scenarios beyond the initial textual confines. This is because the three conditions that define a *ratio legis* as inextensible—*maḥal al-ḥukm*, *waṣf lāzim*, and *juzʾ khāṣṣ*—are derived from an understanding of currently available realities. Al-Ṭabarī responded to the Ḥanafī critique by arguing that the Shāfiʿī *ratio legis* is more consistently present in reality, noting that items exchanged by weight in certain regions might be exchanged by count in others.[69] Ultimately, while a *ratio legis* may be deemed inextensible today, changes in circumstances could render it extensible in the future.

Shāfiʿī jurists stated that the *ratio legis* for the prohibition of *ribā* in gold and silver is inextensible, rendering it inapplicable to other forms of currency.[70] They argue that the extensibility of a *ratio legis* depends on its contextual nature, indicating that the *ratio legis* for the prohibition of *ribā* in gold and silver applies exclusively to these metals as they were the primary mediums of exchange historically. Al-Shīrāzī supported the notion that an inextensible *ratio legis* could still permit the application of the associated ruling in new scenarios that may emerge.[71] However, al-Juwaynī challenged the applicability of this concept to the prohibition of *ribā* in transactions involving *fulūs*, arguing that it contradicts the inherent quality of inextensibility.[72]

Despite such objections, Shāfiʿī jurists, including al-Nawawī,[73] continued to entertain this possibility within the context of the *ratio legis* for the prohibition of gold and silver, highlighting *gawhariyya* as a distinctive quality absent in any other form of currency. For this reason, the qualifier *ghāliban*, meaning "for the most part," was introduced to articulate *ratio legis* of the prohibition of *ribā* in gold and silver, specifically to exclude *fulūs*, which were initially included within the scope of the *ratio legis*. Al-Ṭabarī stated, "We did not consider everything that serves as a medium of exchange; rather, we generally considered the category of such mediums. *Fulūs* are not typically regarded as a medium of exchange, but rather, they are considered so in rare instances."[74] Thus, the *ratio legis* could potentially extend to other forms of currency in the future.

68. Ibid.
69. Al-Ṭabarī, *al-Taʿlīqa al-kubrā*, 2:484.
70. Al-Nawawī, *al-Majmūʿ*, 9:490.
71. Abū Isḥāq al-Shīrāzī, *al-Tabṣirah fī uṣūl al-fiqh*, ed Muḥammad Ḥasan Hīto, 1st ed, (Damascus: Dār al-Fikr, 1980), 453.
72. ʿAbdel Malik ibn Yūsuf al-Juwaynī, *al-Burhān fī uṣūl al-fiqh*, ed ʿAbdel ʿĀẓīm al-Dīb, 2 vols., 1st ed, (Qatar, 1978), 2:1082–3; al-Subkī, *Rafʿ al-ḥājib*, 4:187–8.
73. Al-Nawawī, al-Majmūʿ, 490.
74. Al-Ṭabarī, *al-Taʿlīqa al-kubrā*, 2:484.

The inextensibility of the *ratio legis* concerning the prohibition of *ribā* in gold and silver might suggest that debating whether *ribā* is prohibited due to their intrinsic nature or an external characteristic could seem impractical. However, this debate holds practical implications, particularly regarding *fulūs*; if the *ratio legis* is the intrinsic nature of gold and silver, then *ribā* does not extend to *fulūs*. Conversely, if the *ratio legis* is defined by items used as price standards perceived to have marginal utility, then *ribā* could indeed apply to *fulūs*. This discussion on the applicability of *ribā* to *fulūs* continued among Shāfiʿī jurists, driven by their increased utility and prevalence.

V. *Ribā in Fulūs*: Charting the History of Doctrinal Consistency

In addition to gold and silver currency (*naqd*), supplementary base metal coins known as *fulūs* were typically made of less expensive materials like copper or bronze. The term *fulūs* is derived from the Greek word "follis," which the Arabs adopted from the Byzantines.[75] Upon conquering Egypt and Syria, the Arabs encountered Byzantine currencies that varied in value based on weight, which circulated widely in major Muslim cities of that era. These diverse currencies gained prominence, bolstered by Muslim dominance in Mediterranean trade, and subsequently exerted a significant influence on European currencies. By the 7th/13th century, copper *fulūs* had become so widespread that they surpassed silver currencies in circulation.[76]

As low-value currencies, *fulūs* were generally traded at their face value, which often exceeded their actual intrinsic worth. These coins fulfilled the economic need for conducting small-scale transactions that became impractical with gold or silver, especially as the value of these precious metals grew disproportionately to their weight:

> *Naqd* and *fulūs* represent antithetical conceptions of money. The former was based on metallism, viz. the notion that a coin's value derives from the purchasing power of the metal it contains (hence the focus on weight). The purchasing power of *fulūs*, by contrast, was detached from their metallic content, depending only on their face value– a principle that I refer to hereafter as "nominalism."[77]

75. Abdel Raḥmān Fahmī Muḥammad, *al-Nuqūd al-ʿarabiyya māḍiha wa ḥādiruhā* (Cairo: Dār al-Qalam, 1964), 11; Anastas al-Kamalī, *al-Nuqūd al-ʿarabiyya wa ʿilm al-nummiyāt* (Cairo: al-Maṭbaʿah al-ʿAṣriyyah, 1939), 67–68.

76. For more on the history of Islamic currencies, see Ibid. In his work on Arab currencies and numismatics, Anastas al-Kamalī (d. 1366/1947) identifies four notable contributions within the Islamic tradition: the last section of *Futūḥ al-buldān* by al-Balādhurī (d. 279/892), *Risālah fī al-nuqūd al-Islāmiyyah* by al-Maqrīzī, the 20th volume of *al-Khuṭaṭ al-tawfīqiyyah al-jadīda* by ʿAlī Mubārak (d. 1311/1893), and a treatise on the values of the circulated currencies in Egypt as determined by the mint (*dār al-ḍarb*) in 1265 tilted *Taḥrīr al-dirham wal-mithqāl* by Muṣṭafā al-Dhahabī al-Shāfiʿī (d. 1280/1863). See al-Kamalī, *al-Nuqūd al-ʿarabiyya wa ʿilm al-nummiyāt*, 5–6.

77. Oberauer, "Money in Classical Islam," 429. For more on metallism and nominalism as antithetical concepts, see Benjamin Geva, *The Payment Order of Antiquity and the Middle*

The value of *fulūs* was influenced by economic and societal dynamics, leading to fluctuations over time. When copper was minted into coins, it underwent two significant transformations: 1) its value was determined by the number of coins rather than its weight, and 2) its value reverted to its original state as a metal or commodity when it ceased to be used as currency.

Although Islamic law recognizes three categories of money—gold, silver, and *fulūs*—the reality of the market was more complex, with coins lacking high standardization.[78] The value of a coin was influenced by both intrinsic and external factors. Intrinsic factors include characteristics such as weight, fineness, and integrity, except in the case of token money, which was valued solely based on count, disregarding intrinsic variables. External factors, such as supply and demand, fluctuated due to local and transregional changes in trade and monetary policies. Together, these variables significantly shaped the market dynamics surrounding coins.[79]

The Umayyad Caliph ʿAbdulmalik ibn Marwān (d. 79/691) initiated a monetary reform to establish a standardized system of minting under caliphal control. Subsequent rulers made adjustments to this system.[80] However, over time, centralization of control waned, leading to the proliferation of coins with varying standards.[81] At times, the issuance of low-value metallic coins was used as a strategy to address budgetary crises. For example, it is believed that the *dinar* minted during the reign of Ṣalāḥ al-Dīn (d. 589/1193) was intentionally debased to finance his military campaigns.[82] Importantly, the introduction of new coins did not invalidate previously circulated coins. Gold and silver remained the legal tender, regardless of their form or shape.[83]

Despite the increasing usage of *fulūs*, Muslim historians have consistently emphasized the enduring dominance of gold and silver as the primary mediums of exchange. One such historian, al-Maqrīzī (d. 845/1442), observed that until 806/1403, gold and silver were universally recognized as the official and most

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Ages: A Legal History (Oxford and Portland 2011), 68, 92, 111; Ludwig von Mises, *The Theory of Money and Credit* (Auburn, 2009), 473.

78. Oberauer, "Money in Classical Islam," 431.

79. Ibid, 443.

80. Ibid, 431. For more on Ibn Marwān's reform, see Philip Grierson, "The Monetary Reform of ʿAbd al-Malik: Their Metrological Basis and Their Financial Repercussions," 3 J. Econ. & Soc. Hist. of the Orient 3 (1960).

81. Paul Balog, *The Coinage of the Mamluk Sultans of Egypt and Syria* (New York: American Numismatic Society, 1964), 40–44.

82. For different views on the debasement of dinar under the rule of Salāḥ al-Dīn, see Andrew Ehrenkreutz, "The Crisis of Dīnār in the Egypt of Saladin", in *Coins and Coinage of Egypt*, ed Fuat Sezgin, vol. 2 (Frankfurt a. M. 2004), 190–196 [at 194f.]; Warren Schultz, "The Monetary History of Egypt, 642–1517", in *The Cambridge History of Egypt*, ed Carl Petry, 2 vols. (Cambridge Univ. Press 1998), 331.

83. Oberauer, "Money in Classical Islam," 432.

stable currencies across various regions, reigns, and dynasties.[84] While *fulūs* were occasionally used for low-value transactions, they never attained the same status of gold and silver.[85]

The minting and circulation of *fulūs* significantly increased during the Mamluk period, reaching a peak during the reign of al-Nāṣir Faraj ibn Barqūq (d. 814/1401). Al-Maqrīzī viewed this trend as detrimental to the economy, particularly due to the resulting shortage of *dirhams*, and believed it led to a deprivation of divine blessings.[86] In contrast, he praised the subsequent Sultan al-Muaʾyyad (d. 824/1421), strongly supporting his policies, which mandated that judges enforce financial agreements expressed only in dinars (gold) or dirhams (silver). Al-Maqrīzī endorsed these measures, advocating for the reinstatement of gold and silver as the primary media in economic transactions.[87]

A. Discussions of *fulūs* in Shāfiʿī jurisprudence from the 9th to 18th century

Early Muslim jurists, including al-Shāfiʿī, recognized and deliberated on the use of *fulūs*, acknowledging their limited applicability to low-value goods and their secondary economic role. They emphasized that *fulūs* could not replace gold and silver as primary currencies. Al-Shāfiʿī provided reasoning for permitting forward sales (*salam*) involving *fulūs*:

> I have permitted forward-sale involving *fulūs* because they are distinct from gold and silver in that there is no *zakāh* due on *fulūs* and they do not represent the value of consumables, unlike gold and silver. Indeed, *zakāh* is obligatory on dirhams and dinars, but not on *fulūs*. In the case of gold dust, I consider its origin, but copper does not fall into the categories of *ribā*.[88]

Shāfiʿī jurists identified three distinct qualities that define legal currencies, which exclusively pertained to gold and silver: 1) the stability of inherent stored value, 2) their role as the primary price setters in circulation, and 3) the official regulation of their value and usage by authorities. The circulation of *fulūs*, in contrast, was generally disregarded due to the dominance of gold and silver as the primary currencies. However, discussions emerged regarding the possible equivalence of *fulūs* to gold and silver currencies, influenced by evolving economic landscapes across various societies. These ongoing discussions suggest that the determination of the *ratio legis* for the prohibition of *ribā* in gold and silver is influenced by the prevailing economic realities than by rigid, unchanging principle.

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84. Taqī al-Dīn Aḥmad ibn ʿAlī al-Maqrīzī, "Risālah fī al-nuqūd al-Islāmiyyah", in al-Kamalī, *al-Nuqūd al-ʿarabiyya*, 66.

85. Ibid, 66.67–8.

86. Ibid, 65 & 69–70.

87. Ibid, 65–6.

88. Muḥammad ibn Idrīs al-Shāfiʿī, *al-Umm*, ed Rifʿat ʿAbdel Muṭṭalib, 1st ed, 11 vols., (Cairo: Dār al-Wafā, 2001), 4:195

The evolving economic utility of *fulūs* prompted diverse legal interpretations regarding their classification. Most Shāfiʿī jurists categorized *fulūs* as commodities rather than as currency equivalents to gold and silver. This distinction underlies their position that *ribā* does not apply to *fulūs*, regardless of their circulation.[89] This view stems from the fact that *fulūs* lack the inherent value or precious metals. Therefore, the monetary worth of *fulūs* is considered transient and not universally recognized. Additionally, the value and legal status of *fulūs* were often subject to fluctuating policies of authorities, affecting their legitimacy and use in transactions.[90] Moreover, *fulūs* neither primarily influenced price setting nor were they broadly utilized as a medium of exchange, both crucial considerations for the application of *ribā* prohibitions.

The presence of adulterated *naqd* and the varied sources of metallic coins introduced complexities in transactions that required pure *naqd*. Although it is permissible to sell adulterated dirhams with known percentages of silver and copper, using such dirhams in profit-sharing ventures (*qirāḍ*) is considered impermissible, even if the copper content is disclosed. Al-Juwainī supported this position by arguing that the inclusion of copper transforms the contract from a purely purely monetary exchange to one involving both money and a commodity. However, a minority Shāfiʿī jurists have permitted the circulation of adulterated dirhams in *qirāḍ*, recognizing their functionality as a "medium for trading," and thus serving the broader purpose of *naqd*.[91]

The analysis of the core value of currencies also applies to *fulūs*, which lacks the pure *naqd* value of gold and silver. Mere circulation is deemed insufficient for certain types of transactions. In the context of *qirāḍ*, al-Juwainī, notes that no Shāfiʿī jurist permits the use of *fulūs* to fund these ventures, regardless of their level of circulation. He observes "the circulation of *fulūs* is not widespread in major regions; rather, it is limited to specific areas where local residents agree to use them, which makes them vulnerable to [economic] downturns. If their circulation diminishes and their markets falter, their value faces significant fluctuations."[92] This insight reinforces the understanding that considerations about currency circulation are typically supported by the inherent stability provided by backing with gold or silver.

On the contrary, if parties allocate dinars to a *qirāḍ* venture in an area where they are not commonly used, the *qirāḍ* is still considered valid, regardless of the limited circulation of dinars. Al-Juwaynī maintains that dinars, unlike typical commodities, are stable and not prone to market instability and value

89. This ruling is stated in most of the school's legal manuals. See, for example, al-Nawawī, *al-Majmūʿ*, 9:493.

90. Al-Juwaynī, *Nihāyat al-maṭlab*, 6:22.

91. Ibid, 7:442.

92. Ibid.

fluctuations.[93] He argues that if *qirāḍ* was restricted to currencies actively circulated, it would render the practice impermissible in regions where adulterated money is prevalent.[94] The recognized intrinsic value of gold and silver leads to juristic restrictions on currencies mixed with other metals. This approach typically excludes *fulūs* from many contracts and financial obligations.

Leading authorities who represent the Shāfiʿī school's authorized opinions, al-Nawawī and al-Rāfiʿī, supported the majority view that *fulūs* lack the necessary characteristics to act as price-setters[95] or to experience a general increase in value.[96] Al-Samʿānī further clarified that the inherent quality of appreciating in value, characteristic of various forms of money, is specifically found in gold and silver. This is attributed to their role as mediums of ownership, trade, and wealth accumulation, distinguishing them from other forms of currency such as *fulūs*.[97]

A minority view among Shāfiʿī jurists recognized the widespread circulation of *fulūs* and extended the laws concerning gold and silver laws, including those related to *ribā*, to them. This perspective was primarily observed among Shāfiʿī jurists in greater Khorasan (Bukhara and Khwarazm),[98] where commercial transactions involving *fulūs* were common, especially when their market value was high.[99] This observation is substantiated by Ibn al-Rifʿah (d. 710/1310), who noted that the opposing opinion—that *ribā* does not apply to circulated *fulūs*—was held by Iraqi Shāfiʿīs.[100] Additionally, al-ʿIzz ibn ʿAbdel Salām (d. 660/1262) pointed out that although the mainstream Shāfiʿī position treats circulated *fulūs* as commodities, some within the school regarded them as legitimate mediums of exchange (*athmān*).[101] Moreover, al-Ghazālī was reported to have considered the applicability of *ribā* to *fulūs* as an official, albeit unauthorized, opinion within the Shāfiʿī school.[102]

However, the majority consistently argued against applying *ribā* to *fulūs*, pointing to the prevailing dominance of gold and silver, rather than any intrinsic qualities. As noted by al-Juwainī, the circulation of *fulūs* was regional and

93. Ibid, 7:443.

94. Ibid.

95. Al-Nawawī, *Rawḍat al-ṭālibīn*, 3:380.

96. Abū al-Qāsim al-Rāfiʿī, *Fatḥ al-ʿaziz sharḥ al-wajīz*, eds ʿĀdil ʿAbd al-Mawjūd and ʿAlī Muʿawwaḍ, 1st ed, 13 vols., (Beirut: Dār al-Kutub al-ʿIlmīyah, 1997), 4:74.

97. Manṣūr ibn Muḥammad al-Samʿānī, *al-Iṣṭilām fī al-khilāf bayn al-imāmyn al-Shāfiʿī wa Abū Ḥanīfa*, ed Nāyif al-ʿUmarī, 1st ed, 4 vols., (Cairo: Dār al-Manār, 1993) 108–114.

98. Al-Juwaynī, *Nihāyat al-maṭlab*, 6:21; al-Nawawī, *al-Majmūʿ*, 9:493; al-Ṭabarī, *al-Taʿlīqa al-kubrā*, 2:482.

99. This is indicated in his above-mentioned discussion of funding *qirāḍ* with *fulūs*. Al-Juwaynī, *Nihāyat al-maṭlab*, 7:442.

100. Abū al-ʿAbbās ibn al-Rifʿah, *Kifayat al-nabīh sharḥ al-tanbīh*, ed Majdī Baslūm, 21 vols., (Beirut: Dār al-Kutub al-ʿIlmiyyah, 2009), 9:128.

101. ʿIzz al-Dīn ibn ʿAbdel Salām, *al-Ghāyah fī ikhtiṣār al-nihāya*, ed Iyād al-Ṭabbāʿ, 6 vols., (Qatar: Wizārat al-Awqāf wal-Shuʾūn al-Islāmiyya, 2016), 3:363.

102. Ibn al-Rifʿah, *Kifayat al-nabīh*, 9:128.

unstable. Another renowned Shāfiʿī jurist of his time, al-ʿImrānī (d. 558/1162), acknowledged the minority opinion that in certain regions *fulūs* served as the primary price setter and value determiner of goods. However, he objected to their widespread acceptance, considering it rare.[103]

Notably, al-Zarkashī (d. 794/1392) made the earliest reference within the Shāfiʿī school to the circulation of a form of paper money.[104] When discussing the minority opinion of applying *ribā* to circulated *fulūs*, he highlighted that the disagreement is specific to a conventional interpretation of *fulūs* and does not extend to other metallic coins made of iron, copper, or lead.[105] The observations made by al-ʿImrānī, al-Zarkashī, and others anticipate the potential emergence of new forms of currency, akin to the modern fiat money, and highlight an evolving definition of circulation.

The majority of Shāfiʿī jurists, including those who witnessed the ascent of *fulūs*, viewed the substitution of gold and silver with *fulūs* as a rare phenomenon with minimal impact on mainstream economic and legal principles. Thus, al-Nawawī considered the minority opinion regarding *fulūs* as anomalous (*shādh-dh*).[106] To address such infrequent scenarios, specialists in legal maxims within the school formulated principles, one of which deals with whether rare scenarios should follow default rulings or be individualized. The sub-rule states that in cases of intra-school dispute over specific scenarios, the sound opinion (*saḥīḥ*) is not to apply the default rulings of more common scenarios. For instance, regarding the circulation of *fulūs*, the more sound opinion (*al-ʾaṣaḥḥ*) within the school is that they should not be governed by the rulings typically applicable to *naqd*.[107] This codification of the rarity of such scenarios reflects the juristic approach to potential *fulūs* circulation and elucidates the rationale for their exclusion from the laws of *ribā*.

As they monitored its evolving status, Shāfiʿī jurists maintained their initial stance on *fulūs*, even as these coins gained monetary value over time and became more abundant. By the 16th century, al-Suyūṭī (d. 911/1505) noted the rising value of *fulūs* relative to gold and silver, which posed various economic, social, and legal challenges. In the introduction of his treatise *Qaṭʿ al-mujādalah ʿind taghyīr al-muʿāmalah*, he documented fluctuating exchange rates, such as the initial 8:1 ratio of *fulūs* to the dirham, which later shifted to 9:1. Regarding the

103. Abū al-Ḥusayn Yaḥiā ibn Sālim al-ʿAmrānī, *al-Bayān fī madhhab al-Imām al-Shāfiʿī*, ed Qāsim al-Nūrī, 1st ed, 14 vols., (Jedda: Dār al-Minhāj, 2000) 5:163.

104. Badr al-Dīn al-Zarkashī, "Khādim al-Rāfiʿī wal-Rawḍah: min awwal kitab al-bayʿ ilā nihāyat faṣl miʿyār al-sharʿ alladhī turāʿā bihī al-mumāthalah," (Ph.D. Dissertation, Jāmiʿat Umm al-Qurā, 2015), 727.

105. Ibid, 725.

106. Al-Nawawī, *Rawḍat al-ṭālibīn*, 3:380.

107. Badr al-Dīn al-Zarkashī, *al-Manthūr fī al-qawāʿid*, ed Muḥammad Ismāʿīl, 1st ed, 2 vols., (Beirut: Dār al-Kutub al-ʿIlmīyah, 2001), 2:325; Jalāl al-Dīn al-Suyūṭī, *al-Ashbāh wa-al-naẓāʾir*, 7th ed. (Cairo: Dār al-Salām, 2018), 1:285–6.

exchange rate with the dinar, it began at 260:1 aflori, 280:1 harjah, and 210:1 nasiri. However, as the value of *fulūs* increased, their exchange rate to the dirham decreased to 7:1, and the exchange rate to the dinar improved, reflecting a deduction of 50.[108]

After al-Suyūṭī, discussions on the increasing prevalence of *fulūs* continued with scholars such as al-Haytamī, al-Shirbīnī (d. 977/1570), and Shams al-Dīn al-Ramlī towards the late 16th century. As leading authorities within the Shāfiʿī school, they confronted the challenge of interpreting the term "dirham" in contracts. For instance, al-Haytamī addressed the issue in the context of admission (*iqrār*), noting that some Shāfiʿīs accepted the declarant's interpretation of "dirhams" as referring to *fulūs*. However, this acceptance depended on *fulūs* being the exclusive medium of exchange in the region where the debt agreement was made.[109] Al-Shirbīnī and al-Ramlī concurred with this view, stating,

> If *fulūs* were the dominant currency in a region and silver was no longer used, with silver being exchanged only for *fulūs*—as is the case in Egypt today—then the sound opinion, as discussed by some late Shāfiʿīs, is to accept [the declarant's interpretation involving *fulūs*], even if their interpretation occurred after the time of admission.[110]

However, the widespread use of *fulūs* proved to be transient. In the 17th century, al-Shabrāmallisī commented on al-Ramlī's previous remark about their use in Egypt, noting that these observations were specific to al-Ramlī's era. By the time of al-Shabrāmallisī, interpreting *fulūs* as an acceptable currency from the declarant in contracts was no longer valid, as their use had significantly declined. They were primarily used in transactions involving low-value items,[111] indicating a shift back towards more traditionally valued currencies for larger economic exchanges.

The Shāfiʿī school has consistently differentiated *fulūs* from gold or silver, applying this distinction across ritualistic and transactional laws such as *zakāh*, *ribā*, financing, forward sales, and dowries. Despite the formal issuance of adulterated coins, Shāfiʿī jurists did not automatically categorize them as counterfeit money, thereby legitimizing trade with these coins in regions like Baghdad and Khorasan where they were widely circulated.[112] The conceptual distinction

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108. Jalāl al-Dīn al-Suyūṭī, *al-Ḥāwī lil-fatāwī*, ed ʿAbd al-Laṭīf ʿAbd al-Raḥman, 2 vols., (Beruit: Dār al-Kutub al-ʿIlmiyya, 2000), 1:93–7. Shāfiʿī jurists monitored and recorded the fluctuations in the value of *fulūs* and their exchange rates with silver coins. For instance, al-Qalūbī documented the market exchange rates between the years 1016/1607 and 1020/1611. Aḥmad ibn Salāma al-Qalūbī and Shihāb al-Dīn ʿUmayra, *Ḥāshiyatā Qalūbī wa ʿUmayra ʿalā sharḥ al-Mahallī ʿalā minhāj al-ṭālibīn*, 4 vols., (Beirut: Dār al-Fikr, 1995), 3:111.

109. Al-Haytamī, *Tuḥfat al-muḥtāj*, 5:655.

110. Al-Ramlī, *Nihāyat al-muḥtāj*, 5:92. Al-Shirbīnī, *Mughnī al-muḥtāj*, 3:289.

111. Al-Shabrāmallisī, *Ḥāshyia ʿalā nihāyat al-muḥtāj*, 5:92.

112. Al-Subkī, *Takmilat* 10:279 & 281.

between *naqd* and *fulūs* often did not fully align with market realities.[113] Shāfiʿī jurists acknowledged the deviation from strict metallism, allowing for the acceptance of brass coins containing small amounts of silver. Nevertheless, they sought to regulate this by imposing limits on the trade of gold and silver *naqd* by tale, demonstrating their awareness and efforts to manage the evolving dynamics of currency in the market.[114]

Shāfiʿī jurists, uniquely among classical scholars, addressed the challenge of indeterminacy resulting from the lack of standardized fineness in currencies.[115] The majority of the school pragmatically transitioned from metallism, where the value is based strictly on the metal content, to nominalism, where the value is recognized based on general acceptance and face value. Viewing coins as token money, whose value is contingent on general acceptance,[116] late Shāfiʿī jurists widely endorsed the acceptance of such coins in contracts, provided that the base metal content did not negatively impact the transaction parties. This pragmatic shift underscores the impracticality of adhering strictly to metallism, in the face of evolving market conditions.

During the 18th and 19th centuries, evolving economic dynamics prompted Shāfiʿī jurists to delve deeper into issues related to adulterated dirhams and *fulūs*. Their expanded scholarship, documented in legal manuals, dedicated treatises, and fatwas, continued to dismiss the use of *fulūs* due to the enduring dominance of gold and silver and the ongoing instability of *fulūs*, rendering them inadequate as reliable standards for measuring assets. The subsequent section will explore this period, which coincides with the global transition to paper money, and will present preserved statements from late Shāfiʿī scholars on this topic.

B. The circulation of promissory notes in the 19th century

Fulūs experienced fluctuations until the introduction of paper money in the Muslim world, which sparked debates on new forms of currency. For instance, in the 19th century, al-Sharawānī referenced al-Shabrāmallisī's earlier comments about the discontinued circulation of *fulūs* in Egypt. Al-Sharawānī, who resided in Dagestan, Turkey, Egypt, and Hijaz, did not elaborate on al-Shabrāmallisī's historical note. However, he discussed various laws pertaining to the newly introduced paper currency issued by the sultans of his era.

During the 19th century, Shāfiʿī jurists witnessed a gradual transition from *fulūs* to notes (*nūṭ*) as the recognized legal tender, representing specific amounts of gold and silver currencies. This shift led to discussions in commentaries on authoritative Shāfiʿī texts, focusing on the validity of transactions involving

113. Ibid, 442.
114. Ibid.
115. Ibid, 443–444.
116. Ibid, 444.

notes and their *zakāh* obligations. These discussions resulted in four distinct views regarding the legal characterization of paper money or notes:

1) Some jurists viewed paper money as lacking inherent value or utility, thereby invalidating related transactions and exempting them from *zakāh* obligations.
2) Others considered paper money as debt bonds, thus validating their transactions and subjecting them to *zakāh* in a manner similar to that applied to gold and silver.
3) A third group saw paper money as representative currencies. They argued that *zakāh* should be paid on the physical notes if they are intended for trade, akin to *zakāh* on trade goods.
4) A reconciliatory approach emerged, combining elements of the second and third viewpoints. This approach emphasized distinguishing between the physical form of the note and its representative value in gold or silver, as well as considering the intention of the holder of the note when determining *zakāh* obligation.

These four positions emerged in response to inquiries from diverse Muslim societies, reflecting their unique cultural and economic contexts. However, aside from the first opinion, discussions surrounding the remaining three viewpoints continued into the 20th century without reaching a consensus or an officially endorsed Shāfiʿī position.

1. Notes lack inherent value or utility: al-Sharawānī (d. 1301/1884)

In his super-commentary on al-Haytamī's *Tuḥfat al-muḥtāj*, al-Sharawānī addressed a specific form of paper money issued by the sultans during his era, which served as substitutes for traditional gold and silver currencies. This development prompted inquiries about the validity of conducting buying or selling transactions using this paper money and whether items acquired through these transactions should be considered trade goods, thereby subjecting them to *zakāh*.[117] Al-Sharawānī, taking a controversial stance, invalidated such transactions. He argued that:

> Transactions involving the aforementioned paper money are considered invalid. Neither the owed amount nor the items obtained through such transactions qualify as trade goods, and thus *zakāh* does not apply to them. This is because one of the conditions for a valid contract in Islamic law is that the object being exchanged, whether it is the price or the item being priced, must possess inherent utility and be exchangeable for a commonly recognized form of currency. However, this paper money does not meet these criteria. Its utility relies solely on the decision of the Sultans, making its status akin to that of *naqd*. Consequently, if the Sultans suspend the use of this paper money, or if any of the numbers engraved on it are erased, it would no longer be accepted or exchanged as currency.

117. Al-Sharawānī & al-ʿAbbādī, *Ḥawāshī*, 4:238.

> Nevertheless, it is permissible to accept money in exchange for relinquishing one's possession of the paper money (*rafʿ al-yad ʿanhā*). [This permissibility] is based on the earlier citation from al-Shabrāmallisī in the chapter of Hajj, concerning cutting the plants in the haram area. It is also supported by what was mentioned earlier from Ibn Qāsim al-ʿAbbādī and our Shaykh [Ibrāhīm al-Bājūrī (d. 1276/1860)] that it is permissible to transfer one's job or responsibilities to others in exchange for dirhams, which falls under the same agreement.[118]

Later Shāfiʿī scholars, including Abū Bakr Shaṭā (d. 1310/1893), criticized this opinion, arguing that it disincentivized businesspeople and affluent individuals from paying *zakāh* on paper money.

2. Notes are debt-bonds: Sālim al-Ḥadramī (d. 1855/1272) and ibn Sumayṭ (d. unknown)

In his unpublished manuscript, *al-Fawāʾid al-Jaliyyah*, Sālim al-Ḥadramī provides detailed insights into the nature of paper money, discussing its origins and the regulations established by its issuers. His analysis, extensively quoted by Shaṭā in his published treatise on the topic, ultimately concludes that paper money should be regarded as a form of debt bond.[119] Regarding their form, he described,

> These papers are essentially blank, on which a designated value in rupees is inscribed, typically ranging from one to 1000, and occasionally up to 10,000. The date of issuance is also noted alongside the numerical value. In European terminology, these are referred to as notes (*nūṭ*) and are printed with an official stamp. Consequently, individuals conduct transactions based on the written value on these notes, regardless of whether the amount is small or substantial.[120]

Al-Ḥadramī elaborates that European rulers introduced paper money primarily as a mechanism to safeguard people's wealth, facilitate the ease of financial record-keeping, and enhance the mobility of money.[121] He outlines several standard regulations associated with paper money, including the obligation of authorities to compensate holders with dirhams should they discontinue its use. Additionally, if the paper money becomes damaged but retains its designated value, holders have the right to return it to the issuing authorities, who are obliged to replace it with a similar note. Al-Ḥadramī points out that the amounts inscribed on paper money represent debts owed to the holders within their jurisdiction by the issuing authorities.[122] Consequently, traders and individuals increasingly found paper money convenient to use, as its value was guaranteed

118. Ibid.

119. Sālim ibn ʿAbdullāh ibn Samīr al-Ḥadramī, *al-Fawāʾid al-jaliyyah fī al-zajr liman yaṭaʿātā al-ḥiyal al-ribawiyyah*, in Abū Bakr ibn Muḥammad Shaṭā, *al-Qawl al-munaqqaḥ al-maḍbūt fī Jawāz al-taʿāmul wa wujūb al-zakāh fī mā yataʿlaq bi waraq al-nūṭ*, ed Muḥammad al-Kaznī, (Kurdistan: Matbat Jamiat Salah al-Din, 1998), 34–47.

120. Ibid, 43–44.

121. Ibid, 44.

122. Ibid, 45.

by the backing of the authorities, thus providing a reliable and secure means of conducting transactions.[123]

Based on these observations, al-Ḥadramī provides the legal characterization and ruling regarding this type of paper money as follows:

> It is not the paper itself that is being exchanged, but the value indicated by the numerical figures printed on it. Consider that paper money is produced in identical physical units: one note might be labeled as 25 rupees, another as 50 rupees, and another as 1000 rupees. The key difference lies in the value each represents, rather than their physical makeup. Therefore, the decisive opinion is that paper money signifies a debt owed by its original issuer. Its transfer from one person to another is akin to selling an item in exchange for immediate payment, exchanging it for goods, or establishing an irrevocable debt.[124]

He discusses a common practice of his time, where individuals sell paper money in return for a deferred payment in either paper or silver money, with a pre-agreed profit rate. As this transaction involves exchanging one debt for another—a practice explicitly prohibited in textual sources—it is considered invalid both legally and morally (*ẓāhiran wa bāṭinan*).[125]

Similarly, al-Habīb ʿAbdullāh ibn Sumayṭ was asked about the use of debt bonds as a means to save and exchange money. The specific scenario described involved an individual receiving money, recording the amount on multiple pieces of paper, and marking each one for accurate record-keeping. In this arrangement, individuals only received the precise value mentioned on their deposit-receipts. The query raised concerns that these papers had become more valuable to people than traditional gold and silver. The central question was whether these papers should be classified as monetizable assets or merely as debt instruments, and whether *zakāh* was obligatory on those intending to possess them as property.[126] The urgency of addressing the "spreading evil" of this practice was emphasized by the questioner, especially in light of a circulating fatwa claiming that *zakāh* is not mandatory on these receipts.[127]

In response, Ibn Sumayṭ affirmed that these papers indeed function as debt bonds, and as such, *zakāh* is obligatory on them. He clarified that the value of these papers lies not in in the physical papers themselves but in the value they represent. Holding these papers as property, without the intention of growth, does not exempt one from the obligation of *zakāh*, unless the debtor is released from the amount specified in the debt bond. He added,

> it has become a common practice for the party who borrowed the money to render these papers invalid by issuing announcements across their properties, requesting the return of the papers in exchange for their corresponding value.

123. Ibid.
124. Ibid, 46.
125. Ibid, 47.
126. Ibid, 48–9.
127. Ibid, 49.

> They would appoint agents in various cities to facilitate the payment of dirhams and to collect these papers. In such scenarios, there is no doubt that these papers merely serve as a formality, with the true capital being the debt value associated with them.[128]

Ibn Sumayṭ did not acknowledge any differences of opinion on this matter, considering it to be evident even to those with limited knowledge of Islamic law.[129] Regarding transacting involving these papers in a manner similar to those involving gold and silver currencies, he categorized such activities as forms of debt assignment (*ḥawāla*) contracts, which are subject to the rules governing the sale of debts for debts.[130]

3. Notes are representative currencies: ʿAbdullah ibn Yaḥiā (d. 1265/1848) & al-Anbābī (d. 1313/1896)

The mufti of Hadramaut, ʿAbdullah ibn ʿUmar ibn Yaḥiā Bāʿalawī addressed the issue of copper and paper materials bearing printed statements of value and circulating similarly to *naqd*, particularly in terms of *zakāh* obligation when these items are not intended for trade.[131] In his response, he clarified that *zakāh* is not obligatory on the physical form of these materials but rather on the activity of trading with them, provided that the conditions for *zakāh* on trade goods are met. He further emphasized, "This matter is self-evident and does not require any specific reference or inference. However, we live in a time where what is obvious has become obscured."[132]

Similarly, al-Anbābī, the grand Imam of al-Azhar during his time, received inquiries regarding the notes issued by the sultans, which had become more widely circulated than gold and silver in certain regions.[133] In response, al-Anbābī stated:

> It is permissible to engage in buying and selling using these paper notes, since they represent stored value. Any amount held with the intention of trade is considered a trade good, and *zakāh* is obligatory on it according to the well-established conditions for *zakāh* on trade goods. However, *zakāh* is not applicable to the physical form of these notes, as they are not considered *zakāh*-eligible assets.[134]

128. Ibid, 50–1.
129. Ibid, 51.
130. Ibid.
131. Ibid, 53.
132. Ibid, 54.
133. Ibid, 52.
134. Ibid, 53.

4. Distinguishing form from value: reconciliation of debt-bonds and representative currencies perspectives: Abū Bakr Shaṭā's (d. 1310/1893)

In his comprehensive treatise on the subject, *al-Qawl al-munaqqaḥ al-maḍbūṭ*, Abū Bakr Shaṭā aimed to reconcile the two prevailing perspectives regarding debt bonds and notes, positing that paper money serves a dual role. It exists as a physical form of value while also representing specific amount of gold or silver. The intended use of the paper money determines its characterization and the associated legal implications.[135]

The utilization of note value in transactions involves two scenarios. The first and more common scenario entails using the note to purchase an item with a deferred payment in gold or silver currencies. In this situation, the note is given to the seller, who then redeems its value from the note's issuer. The second scenario involves exchanging the notes for their face value, which is valid as it represents the debt owed to the note's holder by the authorities or their agents. However, exchanging notes for one another, whether in the same or different amounts, amounts to selling debts for debts, which is invalid.[136] Conversely, transacting with the physical notes themselves categorizes them as *fulūs*. Therefore, it is permissible to buy goods with them and exchange them with one another, since they possess utility and value, akin to minted copper.[137]

Shaṭā gives precedence to the first aspect of note value because it is commonly understood that parties in a transaction are interested in the identified stored value of the paper rather than its physical form.[138] Even though the parties may not explicitly state their intention regarding the gold or silver value, this unspoken default assumption prevails. Since the value is the intent of the note's issuer, it is treated as an explicit statement within the agreement.[139]

Through his analysis of the dual value aspects of notes, Shaṭā challenges al-Sharawānī's claim that notes lack value and utility, arguing that this view contradicts observable reality. He cautions against adhering to al-Sharawānī's opinion that *zakāh* is not payable on notes, noting that many merchants misuse this position to evade *zakāh* obligations. Shaṭā highlights that al-Sharawānī issued this fatwa without referencing explicit statements from the school's authorities, suggesting that his opinion should be disregarded.[140] The debate over whether notes should be considered debt bonds or trade goods continued, with both perspectives gaining support within scholarly circles.

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135. Shaṭā, *al-Qawl al-munaqqaḥ*, 55–6.
136. Ibid, 56–9.
137. Ibid, 60.
138. Ibid, 61.
139. Ibid, 61–2.
140. Ibid, 62–5

C. Shāfiʿī perspectives on paper money in the 20th century

During the late 19th century and early 20th century, the rise of banknotes and fiduciary money significantly increased scholarly discourse on monetary systems. The prominent Ḥanbalī scholar, Ibn Badrān (d. 1346/1927), observed that in his time, banknotes had become the primary medium of exchange for a substantial segment of the population. This included North Africans in countries such as Libya, Tunisia, Morocco, Algeria, and Sudan, as well as Muslims living under European colonial rule in regions like India and Russia.[141] This marked shift in currency dynamics led to further examinations of the laws regarding *zakāh* and *ribā*.

In the 20th century, Shāfiʿī scholars expanded upon discussions from the previous century, providing analysis and insights pertinent to the contemporary currencies of their era. Notably, none of these scholars predicted or documented the eventual abandonment of the Gold Standard in the late 20th century, which led to the standardization of currencies that were no longer tied to gold. Key writings from this period within the Shāfiʿī school include a discussion in al-Tarmasī's (d. 1912/1330) super-commentary on Ibn Ḥajar's *al-Manhāj al-Qawīm*, a treatise by Aḥmad Bik al-Ḥusaynī (d. 1332/1914), and two monographs by Aḥmad al-Khaṭīb al-Shāfiʿī (d. after 1912/1330).

1. Muḥammad Maḥfūz al-Tarmasī: *ḥāshiyat* on *al-Manhāj al-qawīm*

Al-Tarmasī, a jurist from Java and a student of Shaṭā, summarized the prevailing perspectives on the nature of notes—whether they should be treated as debt bonds or *fulūs*. He referenced Shaṭā's analysis, which sought to reconcile these views, but noted that Shaṭā had not explicitly specified whether *zakāh* on notes should be paid in gold or silver.[142] Expressing his view, al-Tarmasī argued that the *zakāh* on notes should be paid in silver. He reasoned that since the numbers printed on notes often represent currencies such as rupees or riyals, it would be appropriate to assess their value in terms of dirhams, which are silver units.

While maintaining his stance, al-Tarmasī acknowledged an alternative perspective suggesting that *zakāh* could be paid in the same currency (gold or silver) initially deposited with the authorities. He inferred that this view aligns with Shaṭā's broader understanding of financial transactions involving notes. Additionally, al-Tarmasī considered scenarios beyond typical transactions. For example, he examined situations where notes are acquired non-commercially, such as receiving them as gifts or finding them as validly owned lost property. In

141. Ibn Badrān al-Ḥanbalī, *al-ʿUqūd al-yāqūtiyya fī jīd al-asʾilah al-kuwaytiyyah*, ed ʿAbdulsattār Abū Ghuddah, 1st ed, (Kuwait: Maktabat al-Siddāwī, 1984), 213.

142. Muḥammad Maḥfūz al-Turmusī, *Ḥāshiyat al-Turmusī ʿalā al-manhāj al-qawīm*, 1st ed, 7 vols., (Beirut: Dār al-Minhāj, 2011), 5:209–11.

these cases, he proposed that the individual should have the flexibility to choose the preferred currency for paying *zakāh* on those notes.[143]

2. Aḥmad Bik al-Ḥusaynī: *Bahjat al-mushtāq*

A contemporary Shāfiʿī jurist and an Egyptian civil lawyer who explored modern debt bonds and drafts in an interdisciplinary manner was Aḥmad Bik al-Ḥusaynī (d. 1332/1914). In his work *Bahjat al-Mushtāq*,[144] al-Ḥusaynī approached the issue from three distinct angles. First, he juxtaposed Islamic concepts with those of "man-made law," offering a comparative analysis that bridges traditional Islamic jurisprudence with modern legal systems.[145] Second, he compiled and translated information about banknotes and various commercial and debt bonds from around the world into Arabic.[146] Lastly, he analyzed the values of different currencies in relation to gold and silver, taking into account the prevailing exchange rates at that time.

This comprehensive approach provided a practical framework for calculating and fulfilling *zakāh* obligations amid a rapidly evolving economic environment. Al-Ḥusaynī expanded the scope of his research to include rulings related to the stock market and shares, further addressing the complexities of contemporary financial markets. Moreover, he offered a succinct historical overview of the establishment of modern banks, arguing that notes issued by these institutions fundamentally represent debt bonds that are traded as commodities.[147] To clarify their nature and classification, al-Ḥusaynī provided translations of the most common forms of debt bonds prevalent worldwide.[148]

According to al-Ḥusaynī's analysis, notes that either explicitly state their value and must be repaid upon demand or do not specify a due date should be classified as debt bonds. This classification holds even if there is a customary expectation for holders to repay the value upon demand. If the language on the notes indicates that they are for depositing, their characterization as debt bonds remains unchanged. Governments are understood to manage these deposits in

143. Al-Turmusī, *Ḥāshiyat al-Turmusī*, 5:211.

144. Aḥmad Bik al-Ḥusaynī, *Bahjat al-mushtāq fi bayān Ḥukm zakāt al-awrāq*, (Cairo: Matbaʿat Kurdistān al-ʿIlmiyyah, 1911). Initially, al-Ḥusayni addressed the topic of banknotes and *zakāh* in his extensive commentary on al-Shāfiʿī's *al-Umm*. Due to the numerous inquiries he received from various countries regarding this issue, he decided to extract and publish this section as a standalone treatise.

145. Al-Ḥusaynī notes that in the secular legal domain, which many governments adopt, there is a clear distinction between civil law and commercial law. Specifically, the issuance of notes and currencies is categorized under commercial transactions, typically managed by commercial companies and associated with bonds. To effectively navigate this landscape, it is pertinent to delineate the three types of companies recognized by secular law: joint liability (*taḍāmun*), limited partnership (*tawṣiyah*), and joint-stock (*musāhama*). Ibid, 7–14.

146. Ibid, 14–17.

147. Ibid, 17–27.

148. Ibid, 27–67.

ways that may alter their physical form. Such alteration can be considered a form of damage, making the government liable for the value of the notes. This liability aligns with the concept of debts. Even in rare cases where there is no written text on the notes, the governing principle maintains that the government is responsible for providing their value to holders upon request.[149]

To support his argument, al-Ḥusaynī referenced the definition of "banknote" from the Petit Larousse French dictionary, which underscores their inherent nature as debt liabilities.[150] This underpins the idea that if the notes were considered actual currencies, their issuer would not be obligated to repay their value upon demand, nor would there be a requirement to deposit their equivalent value, whether in cash or other assets, at the issuer's depository institution.[151]

Hence, notes differ from copper coins in three distinct ways. Firstly, while notes can represent substantial amounts of gold, copper currencies hold minimal value by comparison. This significant difference in value representation affects how they are perceived and used in financial transactions. Secondly, if the issuer of notes were to go bankrupt, the notes would become worthless, except as governed by bankruptcy or insolvency laws. This is because if the notes were the actual objects of transactions, their value would not diminish solely due to the issuer's financial failure. This contrasts sharply with currencies, which, as legal tender, retain a nominal value regardless of the issuer's financial health. Thirdly, secular courts require issuers who fail to deliver notes in a timely manner to compensate their holders for their value. This obligation does not typically apply to issuers of currencies, who are not legally bound to compensate holders if the currency itself fails to hold value or if there are issues in its distribution.[152]

Al-Ḥusaynī found that contemporary writings he reviewed on the *zakāh* obligations on banknotes did not comprehensively address the issue. He specifically criticized the view of his teacher, al-Anbābī, who argued that notes are not subject to *zakāh* unless they are used in asset trading. Al-Ḥusaynī contended that this perspective mistakenly treats notes as currencies based purely on their physical form, similar to metallic currencies.[153] Instead, al-Ḥusaynī focused his analysis on the application of *zakāh* laws in relation to debts. He explored concepts such as *ḥawāla* and non-verbal exchange of offer and acceptance (*muʿāṭāh*) in transactions involving banknotes. His approach emphasized treating notes more like debt instruments than traditional currencies, aligning with his broader view of their nature and legal status. It is noteworthy that in his discussion, al-Ḥusaynī did not directly address the issue of *ribā* and its legal implications concerning bonds and modern currencies.

149. Ibid, 67–68.
150. Ibid, 68–69.
151. Ibid, 69.
152. Ibid, 70–71.
153. Ibid, 6–7.

3. Aḥmad al-Khaṭīb al-Shāfiʿī: *Rafʿ al-iltibās* and *Iqnāʿ al-nufūs*

The late Javan Shāfiʿī scholar Aḥmad al-Khaṭīb (d. after 1912/1330) held that notes should be characterized and treated similarly to circulated *fulūs*, viewing them as a form of circulated paper currencies. After presenting his argument in his first monograph, *Rafʿ al-Iltibās*, he sought feedback from various scholarly groups, which resulted in divided responses. In pursuit of more rigorous feedback, al-Khaṭīb sent a copy of *Rafʿ al-Iltibās* with his son to Egypt, aiming to present it to prominent scholars there, including al-Ḥusaynī. Despite the anticipation, al-Ḥusaynī did not provide any feedback or engage directly with his work. Concurrently, al-Ḥusaynī authored his own work, *Bahjat al-Mushtāq*, which advocated for the view that notes are akin to debt securities and that *zakāh* is obligatory on them.

Disheartened by the absence of compelling counterargument but undeterred, al-Khaṭīb persisted in his view of notes as akin to circulated *fulūs*. Nonetheless, he acknowledged benefiting from the definitions and translations of European languages provided by al-Ḥusaynī in his book.[154] In 1911, al-Khaṭīb expanded his argument in a new book titled *Iqnāʿ al-Nufūs*, which he structured into five sections: 1) the definition and rulings of debt, 2) the definition and rulings of debt securities, 3) the definition and rulings of currencies, 4) the definition, background, and implications of notes, and 5) the applicable law to notes, whether they fall under the category of sale (*bayʿ*), loan (*qarḍ*), or *ḥawāla*.

According to al-Khaṭīb, two essential characteristics are associated with currencies: they must circulate within the location where they are used, and their value must be accepted by those engaging in transactions.[155] However, notes differ from traditional currencies in that they are issued by governments or commercial banks and are backed by guarantees, allowing people to use the physical notes as representations of the designated value printed on them.[156] Thus, notes cannot be categorized as debts because individuals acquire them from banks without any explicit or implicit agreement that the bank owes them the value of the notes. Additionally, they do not qualify as typical debt securities, which are financial instruments that usually contain detailed information such as the names of the debtor and creditor, the amount of debt, and witnesses. These characteristics of debt securities are not present in banknotes, which are instead backed by a broader institutional guarantee rather than a personal obligation between two parties. Furthermore, since notes are not considered debts in the traditional sense, the laws governing *ḥawāla* do not apply to them.

Instead, notes are best understood as currencies similar to copper *fulūs*. They share several key characteristics: 1) their monetary value is intrinsically

154. Aḥmad al-Khaṭīb al-Shāfiʿī, *Iqnāʿ al-nufūs bi-ilḥāqaAwrāq al-anwāt bi ʿumlat al-fluūs* (Beirut: al-Maṭbaʿah al-Ahliyyah, 1911), 5.

155. Ibid, 9.

156. Ibid.

tied to their physical form, 2) their circulation relies on the issuer, either governmental authorities or banks, being obligated to provide their value to anyone seeking to exchange them, and 3) their value is diminished if the notes become physically damaged, rendering the printed value meaningless. The extent of the damage directly affects the perceived value of the notes.[157]

In response to the objection that notes fundamentally differ from copper *fulūs* because only the latter possesses inherent value, al-Khaṭīb referenced a legal principle within the Shāfiʿī school, which states that the value of an item should be assessed based on its current state, not its original state.[158] To bolster his argument, al-Khaṭīb drew on a treatise by the Indian Ḥanafī scholar Ahmad Khan Barelvi (d. 1340/1921).[159] Khan observed that individuals involved in transactions with notes do not request or expect any interest, even after months or years have elapsed since the transaction took place, indicating that the primary intention of transacting in notes is focused on conducting a sale rather than earning interest.[160] To counter the claim that notes enjoy universal acceptance across all countries, al-Khaṭīb, relying on Khan's work, pointed out that no jurist insists on such a condition, emphasizing that different currencies experience varying levels of acceptance in distinct regions. Khan, based in Mecca, shared his firsthand experiences regarding the exchange of currency and notes, vividly illustrating how usage and acceptance of currencies can differ significantly between regions such as the Hijaz and India.[161]

Moreover, al-Khaṭīb critically addressed Shaṭā's attempt to reconcile the perspectives on debt bonds and representative currencies, deeming it incorrect. He argued that a reconciliation of views is feasible only when the disagreement is purely semantic. In this case, however, the disagreement arises from practical differences: one group sees the dirhams or dinars exchanged for notes at the bank as a debt (implying an obligation to repay), while the other views it as the price paid for the paper notes themselves (implying a conclusive transaction).[162]

With this characterization of notes, al-Khaṭīb aligned himself with the perspective of Ibn Yaḥiā and al-Anbābī, asserting that notes are exempt from *zakāh* unless they are involved in asset trading.[163] In al-Khaṭīb's view, the concern that businessmen might exploit notes to evade *zakāh* is unfounded because *zakāh* has specific qualifications established by Islamic law that must be met for its obligation. Thus, opposing *zakāh* on notes is akin to disputing *zakāh* on any non-zakatable assets.[164] Furthermore, al-Khaṭīb argued that notes are treated identically to *fluūs*

157. Ibid, 14–15.
158. Ibid, 24–25.
159. Ibid, 27–35. The treatise is titled *Kifl al-faqīh al-fāhim fī aḥkām qirṭās al-darāhim*.
160. Ibid, 28–29.
161. Ibid, 32.
162. Ibid, 40–41.
163. Ibid, 23–24.
164. Ibid, 44–48.

in all relevant legal aspects. Consequently, *ribā* does not apply to notes because, like *fluūs*, they lack the *ratio legis* for the prohibition of *ribā*. This means that notes can be sold or lent with equivalent value or with an increase, similar to other non-gold-and-silver currencies. They can also be exchanged through gift-giving or inheritance, mirroring the treatment of any other circulated non-gold-and-silver currencies. Al-Khaṭīb was critical of arguments for applying *zakāh* or *ribā* to notes out of precaution (*iḥtiyāṭ*), contending that such measures are flawed. He maintained that precautionary measures unjustly impose financial burdens on individuals and traders by creating obligations or prohibitions on transactions without sufficient evidence, thereby disregarding valid legal qualifications, conditions, and definitions relevant to to the issue.[165]

Conclusion

Drawing an analogy between modern currencies and historical *fulūs* proves inaccurate, as it ignores several fundamental disanalogies across legal and economic dimensions. A critical difference lies in the nature of their value. In the past, metallic currencies such as *fulūs* fluctuated in worth when not in circulation, reverting to their intrinsic commodity value. In contrast, the value of modern currencies is derived solely from their function as mediums of exchange, unattached to any physical substances like paper or metal. While metallic currencies were traditionally used for small transactions, with gold and silver serving as the main currencies and price determinants, modern currencies function as evaluative tools for a broad range of commodities, including gold and silver, illustrating a significant shift from intrinsic to assigned value. Furthermore, historical *fulūs* lacked the mandatory acceptance that characterized of transactions involving gold and silver, where refusal was not an option. Creditors had the right to refuse *fulūs* for debt repayment unless explicitly agreed upon in the contract. In modern economic systems, creditors no longer have such discretion; debtors can universally discharge obligations using paper currency. This change marks a significant departure from past practices, fundamentally altering the dynamics of financial obligations.

Attempting to analogize *fulūs* to contemporary currencies presents conceptual challenges that conflict with the principles of legal analogical reasoning. This proposed analogy inaccurately positions *fulūs* as the original case and modern currencies as the derivative case, while also suggesting that *fulūs* are exempt from the prohibition of *ribā* that applies to gold and silver. This approach fails to meet the standards for legal analogy as outlined in legal theory, primarily due to its resulting multi-parallelism. The correct foundational case for the analogy regarding the prohibition should be gold and silver currencies themselves, not exceptions like *fulūs*. Effective legal analogies require clear and direct comparability in their foundational aspects to ensure coherence and validity.

165. *Aḥmad al-Khaṭīb al-Shāfiʿī, Iqnāʿ al-Nufūs*, 48.

Furthermore, the classical examination of *fulūs* primarily addresses the laws of *ribā* in sales transactions, not *ribā* in loans. This distinction is critical as some contemporary fatwas that permit specific forms of interest tend to obscure the differences between these types of *ribā* when highlighting the inherent differences between *fluūs* and gold and silver. This obfuscation is problematic because *ribā* in loans applies universally to transactions involving any form of currency or commodity, rendering the *fulūs* exemption irrelevant. Moreover, the prohibition of engaging in *ribā*-based transactions is underpinned by categorical textual evidence, while its *ratio legis* is inferred from these texts. In legal reasoning, an inferred *ratio legis* cannot supersede the original case, as the textual evidence maintains precedence and carries a stronger probability than any derivative legal interpretation. Consequently, the default ruling on *ribā*-based transactions is impermissibility, even if the presence of *ribā* is merely suspected.[166]

Shāfiʿī jurists traditionally refrained from extending the prohibition of *ribā*, applicable to gold and silver, to *fulūs* due to their historical role as representative currencies. Al-Shāfiʿī himself underscored the unique status of gold and silver, stating, "gold and silver are distinct from anything else because they are the price-setters of everything, and nothing can be analogous to them, whether it be food or otherwise."[167] The school's formal position was centered on the recognition of gold and silver currencies as universal mediums of exchange and stores of value in economic systems. However, as *fulūs* gained wider acceptance, some Shāfiʿī jurists began to reevaluate the applicability of *ribā* laws to these currencies. This ongoing discourse signals a broader reassessment of what constitutes value in currencies, especially as the prevalence of currencies not backed by tangible commodities like gold and silver increases.

Prominent Shāfiʿī jurists, including al-Shīrāzī and al-Nawawī, have suggested that a future currency could potentially share the same *ratio legis* as gold and silver, and thus, inherit the same legal rulings regarding *ribā*. Consequently, the exclusion of *ribā*'s applicability to *fulūs* is nuanced, often qualified by the phrase "for the most part," indicating that although gold and silver occupy exceptional positions due to their historical and intrinsic qualities, their legal treatment is not solely predicated on these attributes. Moreover, characterizing gold and silver as the absolute *ratio legis* conflicts with their practical utility within the dynamics of the real-world economy. Such a rigid characterization fails to adequately accommodate the fluid nature of economic transactions and the evolving understanding of value in contemporary financial systems.

The analyses by Shāfiʿī jurists from the late 19th and 20th centuries regarding bonds and paper money reveal challenges when applied to today's paper currencies, which are no longer tied to the gold standard. These jurists often

166. For more on this principle, see, for example, al-Samʿānī, *al-Iṣṭilām*, 2:112.
167. Al-Shāfiʿī, *al-Umm*, 4:32.

overlooked the prolonged circulation of *fulūs*, influenced by the sustained prominence of gold and silver. They also noted the continual volatility and lack of intrinsic value in *fulūs*, alongside the transient representative value of bonds, notes, and paper money. Interestingly, Shāfiʿī jurists of the 19th and 20th centuries rarely attributed the acceptance of paper notes solely to governmental authority or enforcement. Whether they viewed notes as a form of debt or simply as the price paid for the notes, their writings generally do not emphasize the role of governmental authorities in their acceptance. This omission suggests that the decision to accept notes was largely left to the discretion of the transactors themselves, indicating a trust in the self-regulating nature of the market rather than a reliance on external enforcement.

Contrarily, drawing an analogy between contemporary currencies and gold and silver—based on their shared function as 'items used for determining prices and perceived to have marginal utility'—is both doctrinally plausible and economically rational. Shāfiʿī jurists did not necessarily oppose the perspective of some Khorasan jurists, who considered *fulūs* analogous to gold and silver in terms of *ribā* laws, based on an inherent difference between *fulūs* and precious metals. Instead, their primary objection stemmed from the lack of a clear *ratio legis* for *ribā* in *fulūs*. This suggests that the primary concern was not the material or intrinsic value of the currencies but rather their function and utility in economic systems, which could potentially align them more closely with gold and silver than previously acknowledged.

Furthermore, a modern reassessment of currency circulation is warranted. Historically Shāfiʿī scholars have tended to dismiss the circulation of non-gold-and-silver currencies, influenced by the longstanding dominance of gold and silver as primary currencies and measures of value. However, it is now plausible that Shāfiʿī reasoning could differentiate between the historical non-exclusive utility of *fulūs* as a common medium of exchange and the prevailing utility of today's paper currencies. In this context, custom (*ʿurf*) plays a pivotal role as a determinant in legal judgments. Al-Haytamī's insights into the influence of custom on contractual obligations are particularly instructive. He stated, "If *fulūs* are circulated in a manner similar to *naqd*, they adopt the laws applicable to *naqd* . . . by virtue of custom, even though *fulūs* are not called *naqd* in a literal or metaphorical sense."[168] This perspective suggests that the current widespread acceptance and use of paper currencies could, by virtue of custom, align them more closely with traditional definitions of *naqd*, potentially shifting their juristic classification and the applicable laws of *ribā*.

168. Ibn Ḥajar al-Haytamī, *al-Fatāwā al-fiqhiyya al-kubrā*, 4 vols., (Cairo: ʿAbdel Ḥamīd Aḥmad Ḥanafī, n.d.), 2:182.