Theories of Profit and a Juristic Understanding of Legitimate Entitlement to Profit

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Abstract: The distinguishing feature of Islamic economics, perhaps even its *raison d'être*, is the Qur'ānic prohibition of usury. The prohibition is accompanied by a declaration of permission to trade. This verse (Qur'ān, 2:275) prescribes a clear demarcation between profit and interest, although the Qur'ān itself does not define the difference between the two. The trading activities of the prophetic era and the judgements regarding them given by the Messenger of Allah (*pbuh*) formed a basis not only for understanding the difference between the two but also the norms of business organization. Profit, becoming the central focus of entrepreneurial activity, needs to be understood in terms of its *causes* and *legal entitlement*. The investigation into the cause of profit has been adequately performed by conventional economists and is presented through the theories of Clark, Schumpeter and Knight. Legal entitlement is obviously specific to Islamic jurisprudence; this requires a general survey of the juristic analysis as presented by the major schools.

I. Introduction

Although the notion of profit occupies a central place in economic thought, it was not until the dawn of the twentieth century that a full theory of profit was elaborated. Earlier economists gave a rather brief treatment of profit discussing mainly factors related to the rate or share of profit, rather than any fundamental cause of profit. The dominant understanding was that profit was paid to the capitalist as "interest, a premium covering risk of loss and wages of superintendence" (Siddiqi, 1971: 2). Beyond this, little ground was made. It should be noted that profit was associated very closely

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Review of Islamic Economics, Vol. 11, No. 2, 2007, pp. 55–69.

with the concept of interest; indeed it was assumed that in a perfectly competitive equilibrium the profit rate would equal the interest rate (Tag el Din, 2004: 5).

The first real attempt to understand the cause of profit was made by J. B. Clark (1908) in his seminal work *The Distribution of Wealth.* By developing the concept of a profit-less 'static state' and comparing it to real profit-generating economies, Clark was able to note points of difference that would facilitate his analysis in finding the cause of profit. Subsequent economists using similar models advanced upon Clark's theory, refining and clarifying perceived weaknesses. Frank Knight, in 1921, proposed that profit was inextricably bound up with uncertainty, which was manifestly absent in perfectly competitive economies and so fundamentally pervasive in actual economies. Knight went on to purify the concept of uncertainty, by articulating its strongest characteristics and distinguishing it from the commonly misunderstood notion of risk. Knight's work has since become the mainstay amongst most economists, though parts of the theory have been reworked and expanded to encompass macroeconomics.

The connection that Knight established between profit and uncertainty will be compared to Islamic juristic analysis. Islamic *Sharīʿah* law has from the outset drawn a clear line of prohibition and permissibility between interest and profit. This necessitates that the two concepts be theoretically and practically distinguishable. This has been shown through recent advances in the Islamic banking sector, where interest-based finance has been replaced by profit-bearing modes. The subtle differences between the transactions are notable by appreciating the Islamic law of entitlement to legitimate profit and the prohibition of usury. An examination of these principles will allow the Islamic understanding of profit to crystallize. Then, the degree of congruity between the Islamic and conventional theories of profit can be ascertained.

II. Theories of Profit in Conventional Economics

The theories of Clark (1908), Schumpeter (1912) and Knight (1921) will be presented, after a brief look at the contributions of the earlier economists. Although Knight's theory was further developed by Keirstead in line with the Keynesian developments in economics, they do not question or alter the relationship of profit with uncertainty and hence need not be examined as it is this fundamental assertion that is pertinent to our discussion.

2.1. The early economists

In the era of the classical economists the entrepreneur was synonymous with the capitalist and hence the profit generated by enterprise was tied up with ownership of capital. It is through this reality that interest was linked closely to profit as both were seen as the income of capitalists. Although this may give the idea that earlier economists equated profit with interest, there is in the writing of economists such as John Stuart Mill, a keen distinction between interest and profit, which can also be inferred from the works of Smith and Ricardo (Siddiqi, 1971: 2). Interest is mentioned as a constituent of profit, along with rewards for bearing the risk of loss and management of the enterprise. These terms were used without strict definition however, and no clear demarcation between profit and interest ensued. As reported by Knight (1921:5) the French economist J. B. Say gave an interpretation, which distinguished between the entrepreneur and the capitalist: profit was seen as the *wage* of the former for management and interest the income of the latter. Between the French and English economists profit was hence seen as oscillating between wage and interest. The subject of risk was also addressed but in terms of the risk of loss of capital, and was only given rudimentary treatment in relation to profit. The analysis of Karl Marx was altogether different. Marx proposed that the "value of labour power – the amount of labour needed to produce a worker's daily subsistence – was no more than a fraction of a workday. The remainder of the worker's day goes into the production of surplus value" (taken from Baumol and Blinder, 1982: 774). This surplus value was taken by the capitalist as profit. Marx in his book *Das Capital* defines the rate of profit as "the ratio of the surplus-value to the capital advanced" (Marx, 1976: 660). The picture Marx presents is one of misappropriation of reward, in which the capitalist takes the share of the labourer as his profit. Marx does not accept the function of ownership and hence its ability to generate profit. Again, attention to the unique role of the entrepreneur is missing.

2.2. Clark's theory

Clark begins his theory with a description of a profit-less economy and noting its key characteristics. When compared with real, profit-generating economies significant points of departure are identified to indicate the causes of profit. This method was also taken up subsequently by Schumpeter and Knight. The profit-less economy is called a 'static state', in which all factors are constant and not subject to change, market imperfections are assumed away; hence the absence of monopoly and entrepreneurial efforts are rewarded according to management wage levels. There is perfect mobility and flow of all economic units in a frictionless environment; in short all impediments to perfect competition are dissolved. Clark points to five fundamental characteristics of this model:

(i) Population is at a static level, where dynamic turnover neither leads to an increase or a decrease in the total work force.
(ii) Capital in the circular flow is a constant.
(iii) There is no technological advance in production.
(iv) The methods of organizing capital and labour remain unchanged.
(v) There is no change in consumer wants and desires, no fashions or trends.

As Clark says, "the society acts and lives, but does so in a changeless manner" (reported by Siddiqi, 1971: 16). Any change in these factors will produce a tremor in the system but the economy will adjust and settle at new equilibriums. So changes in population and capital will result in corresponding fluctuations in wages and interest rates, the economy will absorb these changes and then settle back to a static state. Similarly, changes in techniques of production will affect output and prices; adoption of the same techniques by other producers will cause a shift in the equilibrium, but once these become ubiquitous the equilibrium will resume.

The ability of the economy to endure such changes is due to the competitive equilibrium dynamics of the free market. Competition, remarks Knight, has the "tendency to eliminate profit or loss and bring the value of economic goods to equality with their cost" (Knight, 1921:18). Real economies as noted by Clark will, however, not buffer such changes instantaneously as there will necessarily be a time lag. It is into this frictional delay that the entrepreneur seeks to enter and make his profit before equilibrium returns and consumes his profit. Profit is hence a transitional phenomenon: "untransformed increments of wages and interest" (taken from Siddiqi, 1971: 23), its temporary nature demands from the entrepreneur a dynamic endeavour to seek out or generate opportunities on which he can capitalize. This process is summed up in Clark's statement that "dynamic forces, then, account today for the existence of an income that static forces will begin to dispose of tomorrow" (taken from Siddiqi, 1971: 23). Economies are, however, in constant change, the five variables mentioned by Clark are never static; population and capital are in constant growth, innovation in production and management of resources are continually researched and consumer demands are subject to ever-changing fashions and trends. The entrepreneur thus finds permanence for as long as he can keep ahead of the changes, react before competitors and organize his efforts with sound knowledge of the market. Clark's analysis determines that the essential cause of profit is change. These changes yield a surplus in the market prior to equilibrium and they are the sought-after profits of the entrepreneur.

2.3. Schumpeter's theory

Following on the method of Clark, Schumpeter developed the 'circular flow model' in which a profit-less economy is described where perfect competition extinguishes surpluses of monopoly and friction. The analyses of the 'circular flow' economy differ in detail from the 'static state' model of Clark but the basic premise relevant to our discussion is the same. So departures between an ideally competitive environment and actual economies yield the causes of profit. Schumpeter, however, is far more selective in his approach than Clark. Schumpeter identifies the single notion of innovation as paramount, so that changes based upon innovation are the cause of profit. Gradual changes in population and capital would easily be anticipated by the market and hence present no opportunity for the entrepreneur. Schumpeter goes on to describe five areas in which innovation will lead to profit generation (adapted from Siddiqi, 1971: 26):

(i) Innovations in commodities, either by introducing new products or improving old ones;
(ii) Innovations in production techniques;
(iii) Finding new and fertile markets;
(iv) Locating new resources and raw materials;
(v) Changes in industrial organization.

The entrepreneur is for Schumpeter an innovator, who by virtue of his innovation is able to break from the competition, acquire a transitory monopoly in which he can accrue profits until his competitors catch up, but, before they do so, he is able to move on to further innovation in new fields. Schumpeter did not see the entrepreneur's reward as a surplus value but rather as a functional reward linked to his innovative ability (Siddiqi, 1971: 27). The impact of innovation was huge, leading to "gales of creative destruction as innovations caused old inventories, ideas, technologies, skills, and equipment to become obsolete" (Schumpeter, *n.d.*). Schumpeter saw the model of perfect competition in which different companies sold similar goods at similar prices produced through similar techniques as immaterial to progress. Rather he wrote: "[What counts is] competition from the new commodity, the new technology, the new source of supply, the new type of organization... competition which... strikes not at the margins of the profits and the outputs of the existing firms but at their foundations and their very lives" (Schumpeter, *n.d.*). Innovation would thus generate profit not only by staying ahead of the competition but by taking them out of the equation altogether. Such a prospect for monopoly was seen to be a major motive for the entrepreneur.

Schumpeter's analysis was deeper and altogether more penetrating than Clark's, his identification of the central role of innovation to profit-generation was truly attested by the facts. Even Knight's analysis would fail to challenge the importance of innovation in the economy and its relation to profit.

2.4. Knights theory

The tendency of competition to extinguish profits requires, according to Knight, that the theory of profit begin with an "inquiry into the causes of the failure of ideal competition to be fully realized in fact" (Knight, 1921: 22). This leads him into an analysis of a 'perfectly competitive equilibrium', its construction and structure, and its main differences from actual economies. The approach is essentially the same as that of Clark and Schumpeter. The terms 'static state', 'circular flow' and 'perfectly competitive equilibrium' all represent the same basic model of a profit-less economy, the difference in nomenclature perhaps indicative of the respective authors' analytical focus (Siddiqi, 1971: 15).

Knight brings out the importance of uncertainty to profit with a stark critique of Clark's theory of dynamic changes, and by assessing the notion of risk alluded to by previous economists. He begins by inviting a distinction to be drawn between unforeseeable and predictable changes. If all changes that Clark mentions were known in advance of their occurring or could reasonably be predicted, then self-adjusting mechanisms would come into operation before the changes occurred; terminating any opportunity for the entrepreneur to capitalize on them. "No *a priori* argument is necessary to prove that with general foreknowledge of the progressive changes no losses and no chance to make profits will arise out of them" (Knight, 1921: 36).

Knight does not then leave change as a redundant concept; rather, he proposes that it is a specific type of change which can bring about profit. "Change *may* cause a situation out of which profit will be made, *if* it brings about ignorance of the future" (Knight, 1921: 37). Knight found support from Willett who predicted that the ideal 'static state' could never be realized solely in the absence of Clark's dynamic changes; additional assumptions were required "such as a high degree of mobility of capital and labour, the universal prevalence of the economic motive, and the *power of accurately foreseeing the future*" (Knight, 1921: 39). Knight concluded that it was the assumption of 'perfect knowledge' that was of paramount significance to 'perfect competition', and the defining characteristic of real economies was the realm of 'uncertainty'.

Having established 'uncertainty' as the primary issue, he then sought to distinguish it from the concept of risk, which earlier economists had linked to profit. Hawley had previously deduced that profit was a reward for the entrepreneur to induce him to "undergo or suffer the irksomeness of being exposed to risk" (Knight, 1921: 41). In his treatment of risk though, he restricted it to actuarial risks, *i.e.* those that are calculable and insurable. He went on to say that should an entrepreneur insure himself, he in fact abdicates his entrepreneurship and the income he receives will be in *lieu* of management and monopoly gains. The insurer as such becomes the entrepreneur by bearing the risk, and the difference between the premium and the predicted loss will be his profit. Knight attacked the idea of insurable risks as the cause of profit; risks which could be insured were those with statistical probability and as such could be calculated by considering a large number of cases. The prevalence of such risks, common to all business could be covered by payment of an amount which would cover the effective loss to the businesses affected, *i.e.* the concept of insurance, with the result that risk becomes, as Knight says, an 'effective certainty' (Knight, 1921: 46). Risk, he concluded, could not be the cause of profit as it was understood, rather a specific type risk was at work in profit. In defining this risk, which he called 'uncertainty', he laid out five mandatory features, which the entrepreneur was likely to encounter in his enterprise (adapted from Siddiqi 1971: 42-43):

(i) Future. Risks or events in the future were the source of uncertainty, present events are known and hence are tackled through effective business practice;

(ii) Change. There must be changes as Clark had shown, which are the cause of disturbance to perfect competition;

(iii) Unknown. This was left out by Clark but it is the important property of change which qualifies it for consideration, separating the uncertain from known and predictable changes;
(iv) Unique. This means that laws governing it have not been established and hence it is uninsurable;
(v) Not controllable. As such the entrepreneur cannot control the outcome and hence prepare for it.

Uncertainty is therefore that risk which is an uncontrollable unique future change about which we have no prior knowledge, this Knight insisted was the fundamental cause for the emergence of profit in real economies.

Entrepreneurs entering the market are those who seek profit by facing uncertainties absent in the fixed rewards of wage, rent and interest, whose stability and safety they forego in search of larger gains. Uncertainty demands, however, that an entrepreneur be equipped with the skilled judgement to tackle events threatening not only his business but his entire wealth. In addition, the loss that such events generate will be borne solely by the entrepreneur as their uninsurable nature obliges personal liability. Sidiqqi (1971: 15) makes the point that "whereas the exercise of judgement can be delegated by the entrepreneur to a salaried manager or some hired agency, the assumption of responsibility cannot be delegated". This implies that the single fundamental corollary to uncertainty is the liability to incur loss, which cannot be detached from the person of the entrepreneur in any way. Modern corporations function in this exact way, where managing boards of directors are delegated with judgement, whereas liability returns to the shareholders (even if limited to the extent of their shares), as they are the recipients of the dividend profits. The conclusion to be noted, yielding from Knight's analysis is that profit is linked inalienably to liability through the proxy of uncertainty.

III. Islamic Juristic Analysis

Islamic Law does not propound a theory of profit; the jurists rather discuss the basis for its legal procurement and entitlement. The jurists, naturally, have differed in their analytical method and as a result the organization of business practice as advocated by the major schools of thought also differs. The conclusions of the major schools will be presented and the preferred method will be selected to be compared with the result arrived at by Knight.

3.1. The Shāfiʿī analysis

Following the development of Islamic Law, Imam Shāfiʿī articulated his theory of the principles of jurisprudence, which was an effort to refine the analytical method and the sources employed in juristic inquiry. This led to a "somewhat restricted version of the law" (Nyazee, n.d.: 153), where entrepreneurial activity is allowed only on the basis of capital ownership. Organizations such as the *sharikat al-wujūh* (partnership of sound credit rating), and the *sharikat al-abdān* (partnership of work) are seen as impermissible as, being worthy of credit and labour, respectively, are not seen as a legal basis for profit. In this they find agreement from the Ẓahirīs (al-Zuhaylī, 2003: 449). This raises the question of the profit-sharing institution of *muḍārabah*, in which the entrepreneur provides no capital, providing only work and the management of the investor's funds without bearing any responsibility. The Shāfiʿīs explain this as a contract analogous to share-cropping (*muzāraʿah*) which is seen as type of *ijārah*, *i.e.* wage (Nyazee, 1999: 73). This opinion appears to reflect the thought of the earlier economists who identified profit with capital and failed to recognize the individual factor of entrepreneurship.

3.2. The Mālikī analysis

The Mālikīs are more accommodating in their analysis and consider labour also as a basis for profit. In explaining the rationale behind this the Mālikī jurist-philosopher Ibn Rushd, known in the West as Averroes, when enumerating the essential elements of enterprise contracts says "and as for the third element; it is work, which is *subservient…. to wealth* and as such is not regarded in itself as a source" (Ibn Rushd, n.d.: 392). He goes on to explain that the *sharikat al-wujūh* is impermissible because "partnership is linked strictly to *wealth or work* and both are absent in this issue" (Ibn Rushd, n.d.: 94). Although Ibn Rushd declares work as a source of profits subservient to capital, this is restricted to contracts in which capital is a portion of the input, as we can see the Mālikīs also allow *sharikat al-abdān* and *muḍārabah* in which work independently becomes a source of profit when capital is absent. (Nyazee, 1999: 72). The analysis of the Mālikī jurists establishes that the entitlement to profit and its legal source is the contribution of either work or capital.

3.3. The Ḥanafī analysis

The Ḥanafīs adopt an analytical model based upon the theory of general principles often called the *qawāʿid fiqhiyyah* (Nyazee, n.d.: 147). This means that through a process of thorough induction (*al-istiqrā' al-tām*) from the textual sources, principles which govern the law are arrived at. These form the basis from which systematic analogy is used to construct jurisprudence. One of these principles is mentioned explicitly in the *ḥadīth* (verbal tradition) of the Messenger of Allah (*pbuh*), '*al-Kharāj bi-ḍamān*', and is therefore the starting point for juristic analysis. This *ḥadīth* links revenue to contractual liability. This is used as a general principle, running through the entire Islamic contract law. The word *kharāj* is more general in its meaning than profit and has been translated as revenue to include rewards other than profit. We will look at the factors of production – land, capital and labour – through this principle and how the jurists have applied it in practice.

3.3.1. *Land and property*

Fixed revenue which accumulates from ownership of land or property is through the sale of its usufruct. This is termed an *ijārah* contract. The details stipulate that it is necessary that the "corpus of the leased item remains in the ownership of the seller and only its usufruct is transferred to the lessee" (Usmani, 1999: 160). The effective *ḍamān* (liability) operating is for the maintenance of the property such that it continues to provide the usufruct to the lessee. If at any time the property fails to present its usufruct the contract is immediately terminated. It may appear that the rent is not for the *ḍamān* but rather for the sale of the usufruct, this, however, does not hold as sub-leasing the property at a higher rate is prohibited by Imām Abū Ḥanīfah (Usmani, 1999: 177), as the sub-lessor carries no *ḍamān* for the usufruct, rather the original lessor does. If revenue was based solely on the sale of the usufruct an increase in the rent would be permissible, as indeed the Shāfiʿīs have said. The Ḥanafīs, however, make *ḍamān* the central issue. The *ḍamān* in this case arises out of his ownership.

Having understood the operation of ḍamān in fixed revenue, it remains to be seen how it operates in enterprize based on land. The contract of *muzāraʿah* (sharecropping) and *musāqāh* (irrigation partnership) show how land can form the basis of a profit-generating contract. Imām Abū Ḥanīfah considers these contracts prohibited. The reason according to al-Zuhaylī is that "the *wages of the farmer* (his share of the land's produce) is non-existent ... and its future amount is uncertain" (al-Zuhaylī, 2003: 522). This, however, implies that this is a labour contract with an unknown fixed wage which it is not; in fact it resembles the *muḍārabah* contract in which a partnership of work and capital is effected with a proportionate share of the profit given to both participants. In the event that there is no yield the labourer has no right to wages nor the landlord to rent (Nyazee, 1999: 285) and to even stipulate a fixed known wage or rent is enough to invalid the *muzāraʿah*. (al-Qudūrī, n.d.: 133). Nyazee, however, furnishes a better explanation by deriving a principle that "in business you are allowed to gain on what you can lose" (Nyazee, 1999: 280), *i.e.* legal entitlement to profit arises from bearing the risk of loss. Land, he says cannot form the basis for profit as it does not incur a loss and if it did then there is no reason why it should give profit (Nyazee, 1999: 280). In addition it can be said that the *ḍamān* of its usufruct is not in the owner's control. The benefit of land is linked to conditions of climate, weather, and parasite migration tendencies, all of which the lessor is unable to influence, let alone take liability for.

3.3.2. *Labour*

Labour given at a fixed wage carries with it the *ḍamān* of ownership. This is explained by the fact that the labourer sells his services (which he owns) to perform a set of tasks or to make available his services for a specific time period. When the same labourer enters into a *sharikat al-abdān* contract, his liability changes from one of ownership to a liability to perform, this is called *ḍamān al-ʿamal*. This is mentioned explicitly by Imam Kāsānī when discussing the *sharikat al-abdān* of two artisans with different professions, he says it is correct because "entitlement to compensation (profit) in this type of sharikah is based on *ḍamān al-ʿamal*…They are both liable for *ʿamal*, whether the work is identical or different" (Imām Kāsānī quoted in Nyazee, 1998: 45). The question arises as to why profit is for the liability of work rather than for the work itself. This is answered by noting that the distribution of profit is linked to the liabilities agreed in the contract and not to the amount of work done by the partners. Hence a partner has the right to the profit even if he has not worked on a specific order. His liability manifests in orders he does not personally take, rather whatever work his partner has agreed to he is also liable. This is noted in the *Majallah*, the Ottoman law code, which states that *ʿinān* by way of *sharikat al-ʿamal* has the same *ḥukm* as *mufāwadah* with respect to *ḍamān al-ʿamal*. Thus the work accepted by one of the partners may be demanded by the customer from either one he chooses. Each partner is bound for the performance of such work (Nyazee, 1998: 46). Liability is thus established as the cause of profits rather than *ʿamal*, as claimed by the Mālikīs.

3.3.3. *Capital and commodities*

Fixed return on capital, interest, is prohibited in Islam whereas profit through capital investment is permissible. The Qur'ān gives the judgement that "Allah has allowed trade and forbidden usury" (2:275). The *ḍamān* operating in fixed returns (*i.e* wage, rent) is the liability or risk of ownership. Interest accrues on loans advanced where the principal amount is transferred from the ownership of the lender to the borrower. This liability transfer means that if the sum is destroyed in the hands of the borrower, the full amount plus interest will still be due. *Ḍamān* has been shown to be crucial to fixed revenue generation through ownership. By giving up ownership a lender no longer has the right to take revenue from his capital. The importance of this subtle point is brought out in the law of *muḍārabah*, which is the Islamic method of generating revenue from capital. Fundamental to this mode of enterprise is that the investor must retain full ownership and liability of the capital. Imām Kāsānī says 'if the *muḍārib* were made to bear the liability to loss, he would be entitled to the entire profit' (taken from, Nyazee, 1998: 43). This shows the centrality of *ḍamān* to profit. The judge of Kufah, Shurayh, ruled that a purchaser would not compensate the seller for any revenue earned from a property acquired through an invalid transaction, when returning the property (Hassan, 1986: 30). Clearly at the time the revenue is generated the liability of the property has transferred to the purchaser even in an invalid transaction, and hence the seller loses the right to it.

3.3.4. *Credit-based partnerships*

This contract has been included to show how far the Ḥanafīs have taken the concept of *ḍamān*. This partnership is between individuals who neither possess capital or property, their trade is based upon their ability to secure credit in the market. The profit is distributed according to the *ḍamān al-thaman* and is tied exclusively to the liability of paying the price of the goods. So a partner is *liable* in the agreed proportions to everything that his *partner* buys. This liability becomes the basis to benefit from sales and transactions that he is not at all involved in, except through *wakālah* (agency), which is linked to the *ḍamān* both parties agree to.

3.4. The Islamic theory of profit

From the preceding discussion we can summarize by noting the different approaches taken by the jurists in articulating a framework for profit entitlement in enterprize. The approach of the jurists is generally reflective of their respective methodology in textual analysis. Those jurists, like the Shāfiʿīs and the Ẓāhirīs who take a restricted, almost literal, approach to the sources have concluded that the basis for profit is wealth. This is due to the centrality of wealth to business enterprise in the textual evidences. No discernible attempt is made at deeper analysis to yield a more flexible system. Their focus is merely to represent the historical *status quo* of the prophetic era and draw juristic conclusions reflecting the visible forms. On the other hand, those jurists who take an approach that would infer 'general principles' - such as the Ḥanafīs and the Mālikīs (Nyazee, n.d.: 147) aim at generating a flexible system permitting non-monetary partnerships.

We have seen that the Mālikīs regard work, in addition to wealth, as a factor of profit; although Ibn Rushd sees it as subservient to wealth they do allow partnerships of labourers or artisans, which are based solely on work. The Ḥanafīs have taken a different approach. By using the *ḥadīth* 'revenue is acquired through a liability for loss', they attempt to formulate a comprehensive understanding, which explains not only profit but all forms of revenue. This systematic consistency, they show through their explanation of the prophetic traditions and the application of them to scenarios of enterprize novel to their age. This allows a theory of profit and revenue, which can be used to a great extent in designating rights and liabilities in present day contracts and in distinguishing between prohibited and permissible contracts. Central to their theory is the concept of *ḍamān*, which they present in varying forms, contingent on the nature of the partnership. The dynamism demonstrated in their application is unparalleled, and generates a myriad of opportunities for would-be entrepreneurs.

The views presented by the schools of thought are, as expected, juristic analytical presentations rather than positive economic inquiry. It remains to be seen what Islamic economists can synthesize from the juristic analysis and recent theories of profit. The concept of 'uncertainty' (as opposed to risk) is virgin territory in Islamic analysis, although its vital corollary, liability is firmly embedded in the Ḥanafī model. This may be the point of convergence between the two approaches – secular and Islamic – and open the door to understanding the role of 'uncertainty' in a jurisprudential classification of *ḍamān*, *i.e.* the *ḍamān* operating in fixed revenue and the *ḍamān* operating in profit generating enterprises. It is expected that it is restricted to the latter, as Knight suggests; it is the crucial distinguishing factor between economies of fixed revenue (*i.e.* wage, rent and interest) and real profit-generating economies. Further analysis is needed to pursue the exact role of 'uncertainty' and the extent of divergence and congruity between the two approaches; juristic and economic.

IV. Conclusion

Discourses on the theories of profit in the early twentieth century identified profit as a result of dynamic changes occurring in society, technology and organization. This was supplanted by the unique work of Schumpeter who identified the innovative aspect of change, as the sole progenitor to profit. His impressive analysis was not displaced but complemented by Knight's theory. Knight identified that the uncertainty involved in the process of innovation was the real cause of profit, as it was the single marked characteristic necessarily absent from an economy in perfectly competitive equilibrium. Knight then went on to show that both sound judgement and liability to loss were the essential qualifications of enterprize, where sound judgement was necessary for the continuation of the project and was normally delegated to competent managers, whereas liability was inextricably bound to the person of the entrepreneur. This demonstrated the fundamental role of liability in the theory of profit.

The survey of juristic thought highlights the disparity in textual analysis between the so called 'literalists' and 'rationalists'. The strict interpretation of the Shāfiʿīs and the Ẓāhirīs establishes an exclusive link between capital and profit, such that enterprizes are restricted to those based on capital. The approach of the 'rationalists' generates a more flexible system in which work input is also, according to the Mālikīs, a considered basis for profit. The Ḥanafīs, identifying the crux of the issue with their ingenious analysis, place *ḍamān* at the root of the entire commercial system. Backed by an explicit textual reference to the linking of revenue and profit, they develop a complete system of partnership law based on rights and liabilities. Different types of liability are invoked to demonstrate various forms of partnerships: *ʿinān*, *mufāwadah*, *abdān* and *wujūh*. These partnerships are governed by the laws of liability or *ḍamān* through the constructs of *amānah* (trust), *wakālah* (agency) and *kafālah* (surety). This analysis allows the link between the work of Knight and the jurists to be developed by Islamic economists. The relationship between economics and law should be complementary, allowing not only a place for usury prohibition in Islamic economic analysis but also for the entire corpus of commercial law.

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