

## ***Are pension schemes permissible?***

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Q. Are Pension Schemes permissible?

A. An employee is invited to join a private Company pension scheme when he joins a new company or at a later date during his employment. He is required to make monthly contributions, which the company matches for the term of his employment until he retires. He may opt to pay in AVCs (additional voluntary contributions) in order to further boost his pension. He may retire early and start to benefit from his pension; there may be other options available to him according to his scheme.

A typical simplified example of a pension scheme is as follows:

Zayd works for a multinational global company called Carnegie. Zayd pays in 4.5% of his wage every month into his Pension Scheme, which is matched by Carnegie. Zayd earns £18,000 gross (before deductions) per annum therefore his contributions per month would be as follows;

Pensionable Salary £1500 - £312 = £1188  
Wage - Tax = Net Wage  
Gross Contribution £1188 x 4.5% = £53.46

(Some Pension Schemes offer tax relief and national insurance savings in order to decrease the amount an individual pays)

This contribution of £53.46 is matched by a similar contribution from Carnegie; this is permissible as it is part of the employment contract between Zayd and Carnegie, a sort of bonus or part of his wage.

Carnegie then offers to Zayd at his normal retirement age of 65 the following;

$2\% \times \text{Final Pensionable Salary} \times \text{Pensionable Service} = \text{Pension}$

Zayd joined Carnegie when he was 35 and retired after his 65<sup>th</sup> birthday, therefore he works for 30 years, and he reached his pensionable age on a salary of £18,000. Hence,

$2\% \times £18,000 \times 30 = £10,800$  pension every year for the remainder of his life.

## Analysis

Zayd makes contributions of £53.46 every month for thirty years (I appreciate he would get pay rises either with inflation or above but for ease of calculation and understanding let us assume he does not). He therefore makes a total of £19245.60 in contributions; this is matched by an equal amount from Carnegie, which makes a grand total of £38491.20. When he retires at 65 he would have got more than what he and Carnegie contributed after four years of his pension (i.e. £10,800 x 4 years = £43,200). Therefore, the issue is what is this extra money, is it genuine profit or is it *ribā* (usury)? The contributions are usually invested in various areas, however one area, which guarantees reliable healthy returns is in gilts. Gilts are government bonds, basically a loan to the government to cover expenditure that is not covered by taxes. As such, they represent a promise to pay the holder a set level of interest during the lifetime of the bond and to repay the money in full on a set date. The reason why investments, particularly pensions, employ gilts is because we know the UK is going to be here for a while and the likelihood of bankruptcy is exceptionally low, if non-existent (financially speaking). Therefore, Pension Schemes feel comfortable in nearly guaranteeing a good pension at the end of an employee's employment.

## Ruling

It goes without stating that in Islam, without any doubt, usury *ribā*, is *ḥarām*. In this type of pension scheme there are two types of *ribā*; *ribā al-faḍl* and *ribā al-nasīʾa*. The former is receiving more money than contributed and the second is receiving more money than contributed at a later date. Likewise, *al-qimār* (gambling) is illegal in Islam.

Secondly, Shaykh al-Marqīnānī mentions in *al-Hidāya*, “There is no sale of unborn offspring or offspring of unborn offspring due to the prohibition of the Prophet from trading in neither the unborn offspring [of a pregnant animal] nor the offspring of the unborn offspring because it contains *gharar*<sup>1</sup> [hidden consequences]. In *Radd al-Muḥtār* it is stated, “**The selling of an unborn offspring** (i.e. the fetus) and the seed in the liquid like semen [due to his (saw) prohibition<sup>2</sup> from the sperm of the he-camel and the egg of the she-camel and the offspring of the unborn offspring, because it contains *gharar*. It

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<sup>1</sup> Al-Marqīnani, *Al-Hidayah*, Vol 3, pg 51, Darsi Print

<sup>2</sup> Al-Bukhārī narrated it (Vol 4, pg 299-8) in the Book of Trade, Chapter on Trade of *Gharar* and Unborn Offspring and in the Book of *Al-Salam* Chapter of *Al-Salam* to the point when the She-Camel breeds. Muslim narrated it in the Book of Trade in the Chapter of the illegality of trading in the offspring of the unborn offspring (Ḥadīth No. 1513). Abū Dawūd narrated it in the Book of Trade in the Chapter of Trade of *Gharar* (Ḥadīth Nos. 3380-1). Nasaʿī narrated it in Chapter of Trade in the Chapter of the Offspring of the Unborn Offspring (Vol. 5, pg 293-4). Tirmidī narrated it in Book of Trade in the Chapter of that which discusses regarding trade of the offspring of the unborn offspring (Ḥadīth No. 1229). Mālik narrated it in *Al-Muwatṭa* (Vol.2 pg 253-4) in the Book of Trade, Chapter on that which is not permissible in the trade of animals. For further details see *Jāmiʾ al-Usūl* (Vol 1, pg 488) [Ibn ʿAbidīn’s footnote Vol 7. pg 251]

has already preceded that the trade of the three is invalid.] **and the slave girl except her feutus** due to its defectiveness because of attaching a condition, excluding gifting and bequesting; **and milk in the udder and pearl in the shell** due to *gharar*<sup>3</sup>” Al-Sarakhsī’s definition is most acceptable, “It is that whose consequences are hidden<sup>4</sup>

The Fuqahā are on agreement that *Gharar* transactions are impermissible<sup>5</sup>.

The prohibition extends by analogy (*qiyās*) from sales to cover financial commutative contracts (An agreement under which the contracting parties specify the values that they will exchange; moreover, the parties generally exchange items or services that they think are of relatively equal value.<sup>6</sup>), which are thus affected by *gharar* in the same way.

In al-Hidāya it is stated, “It is not permissible to purchase one cloth from two cloths due to *jahāla* [ignorance] of the product<sup>7</sup>”. Hence, if a person was offered two, or more, cloths he could not say I have bought one as the seller is unaware which one he has bought.

A pension scheme like the above is impermissible due to the following reasons:

1. *Ribā* (Usury) – Since the pension paid back annually to Zayd is an increase over the contributions he made and the majority of his contributions were invested in gilts then this is *ribā*, which is *ḥarām*.
2. *Gharar*<sup>8</sup> (Hidden Consequences) – The amount of pension paid to Zayd is based on an uncertain event, which constitutes *gharar* as to how long will Zayd live for, will he reach retirement age, etc. Therefore Carnegie could be paying ten to twenty times over what Zayd contributed and Zayd does not have to pay any compensation for that ‘extra’ amount.
3. *Qimār* (Gambling) – There is gambling involved as small contributions are made in anticipation of collecting large sums, which is a form of gambling.
4. *Jahāla* (Ignorance and Uncertainty) – Zayd and Carnegie are acting according to an agreement/contract not knowing what profits or losses may be accrued to them, this is more in the case of Carnegie than Zayd as he will rarely get less than his contributions. If it is said this is in agreement with Carnegie then it still would not be permissible as it is the same as saying adultery is permissible if there is consent.

<sup>3</sup> Ibn Ābidīn, Durr al-Muhtār, Vol 7, pg 251-2, Dar Al-Marifah, Beirut

<sup>4</sup> Wahbah al-Zuhayli, Al-Fiqh Al-Islamiyya wa Adillatuh, Vol 5, pg 3411, Dar Al-Fikr, Damascus.

<sup>5</sup> Wahbah al-Zuhayli, Al-Fiqh Al-Islamiyya wa Adillatuh, Vol 5, pg 3411, Dar Al-Fikr, Damascus.

<sup>6</sup> LOMA’s Glossary of Insurance and Financial Services Terms

<sup>7</sup> Al-Marqīnānī, Al-Hidāya, Vol 3, pg 54, Darsi Print

<sup>8</sup> For definition of *gharar* see Wahbah al-Zuhayli, Al-Fiqh Al-Islamiyyah wa Adillatuh, Vol 5, pg 3408-11, Dar Al-Fikr, Damascus.

On a separate issue life insurance is usually incorporated within a pension scheme, which is also impermissible.

Therefore, Muslims should refrain and abandon these schemes as there are impermissible, any money generated from a similar scheme is not permissible, hence the food and clothes they would buy and the bills they would pay will be using money obtained by an impermissible means.

Generally speaking it is permissible to invest for the future therefore one should endeavour, if one wishes, to look for those pension schemes which are referred to as 'ethical' or 'Islamic' and ask a knowledgeable scholar to investigate whether it is religiously sound or not.

Another area which the Muslims have a requirement is the initiating and development of a cooperative (mutual) pension scheme.

والله اعلم وعلمه أحكم وأنتم

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