

Which circumstances would allow Muslims to buy dire needs on credit through interest financing?



By

Ustaaz

Ahmed Fazel Ebrahim

Johannesburg, South Africa

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Dear questioner, as-Salamu `Alaikum wa rahmatu Allahi wa Barakatu.

We have forwarded your question to Dr. Monzer Kahf, a prominent Muslim economist and counsellor, and he gave the following answer:

“Dear brother,

Interest is the most common kind of Riba. Riba is prohibited in Islam. God says in the Qur'an "and Allah made sale permissible and prohibited Riba" God also threatens a war from God and His Messenger to those who do not quit even remaining remnants of Riba, please read Verses 276 to 280 of Surah 2.

Taking mortgage for a house, a land for any purpose is certainly prohibited in Islam. There are certain necessities though that our Shari'ah recognizes. These include a house to live in, the size and value of it depends on the needs of the family. This means that while a personal residence for you and your parents may fall under such necessities, apartments for investment and land for investment do not.

Find some other investment that does not make you fall under the prohibition of Riba. Or use the money to pay for the present mortgages and rid yourself of the Wrath of Riba.

The Prophet, pbuh, said that the Wrath of God is on the taker, the giver, the writer and the two witnesses of Riba.”

**May Allah guide us all to the straight path!
Allah Almighty knows best.**

Response by Ustaaz, Ahmed Fazel Ebrahim

Assalaamu Alaykum

Dear brother in response to the answer provided to you by Dr. Monzur on behalf of **Islamonline Fatwa Editing Desk**

Dr. Monzur (who replied on behalf of **Islamonline Fatwa Editing Desk**) is correct. Essentially, in terms of the content of his opinion, it is no different from the view that I expressed, and which I forwarded to you.

He said:

Interest is the most common kind of Riba. Riba is prohibited in Islam. God says in the Qur'an "and Allah made sale permissible and prohibited Riba" God also threatens a war from God and His Messenger to those who do not quit even remaining remnants of Riba, please read Verses 276 to 280 of Surah 2.

I admit to the correctness of the above (Ahmed Fazel Ebrahim)

Taking mortgage for a house, a land for any purpose is certainly prohibited in Islam.

I admit to the correctness of the above. There are many other prohibitions in Islam, e.g. eating pork is Haraam but Allah allowed it in dire circumstances in order that a person protects his life. This does not mean that a person has thus classified the eating of pig to be Halaal for everyone and under all circumstances.

We no more live in primitive Islamic societies where we can live without a house or other dire needs that we need to survive.

Sometimes a man finds employment in a city or location that is far from home. He cannot get there since he has no car. What does he do? Does he suffer in life with no job, or by allowing himself to be oppressed with a low wage for a job description that he does not fit into, or do we allow him, due to his poor economic status, to buy a car on an interest basis so that he can be respectably employed in the place where the vacancy suited him. This will then protect him and his family as well as prevent him from being subjugated to social grants of society. In the absence of a Halaal non-interest loan that he could Islamically use, there remains no alternative for him but to succumb to buying a car on an interest basis. In such a case, we would allow him to buy an average suitable car to fulfil the task and demand at hand. For him to then buy a luxury vehicle (that is beyond real need) on interest would be a violation of the requirement of need. (Ahmed Fazel Ebrahim)

There are certain necessities though that our Shari'ah recognizes. These include a house to live in, the size and value of it depends on the needs of the family. This means that while a personal residence for you and your parents may fall under such necessities, apartments for investment and land for investment do not.

Dr. Monzur acknowledges that the Shari'ah recognizes the fulfilment of basic needs. Yet, he fails to rationally discuss the alternative financing technique in the absence of an Islamic solution relating to the purchase of these basic needs.

The Shari'ah wants basic needs to be fulfilled in an Islamic manner. Since, this is sometimes not even possible to be done in a Halaal way in Muslim countries, what economic alternatives does a person have besides taking a mortgage on a interest bearing loan, especially if he is living in a non-Muslim country and fails to get a interest free loan from his Muslim brethren?

Thus, like I said, the need to buy homes and property to serve your needs and service your debt were dire essentialities but the desire for further capital growth through interest financing is not allowed.

The actual issue under contention is not the mortgage since that is a protection mechanism used by the banks or financing institutions to secure their capital outlay, the contention is the permissibility of buying on credit through an interest bearing loan in given situations of dire need when Islamic alternatives are not available? Under normal circumstances, if you had cash to purchase such property, it would be Haraam to buy on credit and pay interest. Also, if there was no need to buy something, then buying on the basis of interest creates an interest debt which, primarily, was not essential. (Ahmed Fazel Ebrahim)

Find some other investment that does not make you fall under the prohibition of Riba. Or use the money to pay for the present mortgages and rid yourself of the Wrath of Riba.

He is correct in regard to finding a non-interest investment.

His request relating to the use of money from the sale of one of the properties to pay for your death and clear the interest obligations would have been correct if it resolved your financial

difficulty and did not demand of you to engage into another interest obligation. He fails to consider the practicality of his option in terms of your financial needs. (Ahmed Fazel Ebrahim)

The Prophet, p.b.u.h., said that the Wrath of God is on the taker, the giver, the writer and the two witnesses of Riba.”

The above is correct. I will never ever dispute it. Yet, in the same way that pork is allowed in dire circumstances, perhaps Allah would allow a Muslim to pay interest under compelling circumstances. However, the Islamic legal reasoning to this allowance is something that I have to still solve. (Ahmed Fazel Ebrahim)

Original question sent to me

Assalaamu Alaykum, Dear brother

You said:

Assalaamu `alaykum

I need your fatwa relating to buying homes through mortgage.

I have three houses and one apartment (Total four) all of them under mortgage. The mortgage was with a major Canadian bank. I live in one of them with my wife and the other one my retired parents live in it (I take care of my parents). The third house and the apartment are now rented to a tenant and they are paying for them self, even more, they paying part of my house mortgage and my parent’s mortgage, And now I’m thinking to bay a land as investment and put it under mortgage with the four houses

... I looked into Halaal financing which is not readily available. and what is available I cannot afford. Do I have to sell the houses and the apartment? Or what should I do? Somebody told me that what I’m doing right now is Haraam and its Haraam wealth. Please let me know whether what I’m doing right now is Halaal or Haraam.

Answer given by

(Ustaaz) A.F. Ebrahim

(Shariah Research Scholar: Islamic Economics and Finance)

The Shari'ah has indeed prohibited interest for all parties - for the buyer and the seller. We cannot deny this order of Allah and cannot change the rule. The rule remains to eternity. However, we are faced with economic needs and necessities. Many Muslims live in non-Muslim or non-Islamic countries and the reality of the need to engage with interest cannot be discarded. In fact, even in Arab and Muslim countries, the use of interest transactions and interest formats of banking is a norm in society.

Either you pay rental to a landlord and don't get to own the house or you take a bank loan and become compelled to pay interest. As a tenant, you can be evicted at any time or may not get the opportunity to renew the lease.

The question you ask is haunting Islamic scholars for centuries. The Qur'an has allowed the eating of Haraam foods when there is absolutely no form of Halaal foods available for survival. Thus, if not even vegetables are available, then you can eat pork to the extent that fulfils your hunger. Some scholars say that eating pork in such a condition is also to be done without relishing the meat.

Does a man pay interest and own the property at the end of the term or does he rent from a landlord who could possibly also charge him an exorbitant rental which is far higher than the interest payments that he would make to a bank.

Again, I heard some people say that some Ulema permitted a person to buy his first home through interest if Islamic alternatives were not available. I don't know who issued such a fatwa and on what basis? [Later included: This allowance is most likely because of the absolute essentiality of the need to buy a home in order to survive. Sometimes, if a family shifted to another location, they may again be compelled to buy another home on interest, since the first home is either not sold, or the rental proceeds thereof are consumed by other essential payments]

One person's need may be to shelter his immediate family. Another person, like you has to also care for his parents, yet again, others have to care for their children? The need of a person is relative to his family, financial situation and other obligations in life. The needs of one family with no kids differ from the needs of another family with no kids.

When a man has capital, and he then purchases a home on the basis of interest despite having the financial capability of buying the home, car, business premises on a cash basis, then he is indeed violating the order of Allah and has transgressed the boundary of need. This is in the case when no other needs are to be met with the available cash. Some parents may require the cash to start a business or pay for education.

Then, there are needs that have to validly be met. In your case, you need shelter for you and your family. Then, the need also existed to care for your parents and shelter them. Perhaps financial and other constraints demanded that you purchase the third property to cover for the existing cost that you had relating to the maintenance of two homes. This third property has now helped to stabilize your financial needs.

For you to now buy further land for investment purposes purely for the sake of enrichment, and without the dire need for finance would be a transgression of the boundary of need. Your engagement with interest payments would now have no justification before Allah.

However, if there are other financial obligations that you have and which would arise in the course of your life and you find no alternative but to engage with paying interest because of the need to buy the land as an investment, then I, personally, fear to classify this as Halaal, so what I will say is "If you go ahead and venture into such an obligation, then make taubah to Allah for paying the interest, and let us hope that Allah had given allowance in such a situation." Allah forgive me, I previously advised a friend from the U.K. to go ahead and but the building which he used as a warehouse. He paid high rentals and the property prices escalated on a annual basis. Over the years, due to inflation, the property market in certain parts of the world then reaches a point where it cannot be afforded any more. I felt that these are needs, which if cannot be met through halaal avenues, then it would be permitted, in the worst case scenarios, to buy on interest and through mortgage. Here again, can we say that a man's need is to fill his belly, shelter and feed his family, thus if these and other basic needs are met, then engagement with taking interest loans is haraam, or, do we say that the economic progress of Muslims and Islamic society cannot be met in present market situations except through taking loans which have to be serviced with interest and thus, economic situations compel us to resort to this?

If you sell any of the houses and are assured that investing such money into the land that you intend to purchase would absolve you of the interest payments due on such homes as well as serve your other financial requirements without you having to continue to pay interest on this

new land procurement, then it would be wise in terms of the Shariah. However, if this is not financially viable, then rather keep the homes, and, if the need exist for earning, then take the mortgage on the land if no halaal alternatives are available or affordable.

Make Istikhara to Allah. Seek the advice of other higher ranking scholars on this matter and if you get an answer different from my opinion, let me know so that I may retract my statements and follow better arguments and deductions of those more learned on the subject.

Ustaaz, Ahmed Fazel Ebrahim

Johannesburg, South Africa +27 82 592 4012 mobile +27 11 837 5035 home

Furthermore, refer to the following question posed to Justice Taqi Uthmani (Pakistan).

Justice Mufti Taqi Uthmani

Q. "I am an Indian Muslim Businessman. I have been staying in Saudi Arabia since 9 years.

1. Can we take interest-bearing loans from government, Banks, Financiers (in India), for the purpose of doing business, or constructing a house. I heard some Muftes in India have permitted businessmen to take loan. Is this allowed in the case of Dar-ul-Harb? The permission is given on the basis that if Muslims take loans and do big business, they will employ a big number of Muslim staff, and many unemployed Muslims could get jobs, and this is a matter of Thawāb (religious Reward). If we do not do it, the Non-Muslims are doing it, and all big business will only remain in the hands of Kafirs. This is a practical problem. Could you please comment?

2. If “no” is the answer to my above question, can you please inform us how to do big business, in India, without taking loans? I think it's impossible, and when I studied this carefully I found that more than 95% of Muslim Industrialists, Exporters, and big trading groups do take loans just to be safe from the government.

As you cannot declare your white money, if you do, you have to pay heavy taxes. So the best way to show the source of income or cash money is through bank loans, and to pay tax on this money is easy. I am really confused, and this is the main reason, for not starting a business in India. Can you please solve this problem? Jazakallah Khair.

(H. R. Salaman, Saudi Arabia)

A. According to the overwhelming majority of the Muslim jurists, there is no difference between Darul-Islam and Darul-Harb in the prohibition of Riba. A transaction of Riba is totally prohibited, no matter whether the other party to the transaction is a Muslim or a non-Muslim. Although Imam Abu Hanifah has allowed interest in a non-Muslim Country with certain conditions, yet this view has not been approved by the majority of jurists, including a large number of Hanafi jurists themselves.

In the early days of the Holy Prophet S.A.W many Muslims used to enter into Riba transactions with non-Muslims, but when Riba was prohibited, they stopped this practice totally. The verses of the Holy Quran which prohibited Riba did not differentiate between a Muslim and non-Muslim. Similarly there is no example in the

days of the Sahabah RA where any one of the Sahabah entered into a Riba transaction with a non-Muslim after the prohibition was enforced.

Therefore, one cannot be advised to take an interest-bearing loan, even in a non-Muslim country.

Notes by Ahmed Fazel Ebrahim on the above fatwa by Mufti Taqi Uthmani

1. He does not clearly specify whether Imam Abu Hanifah has allowed interest in a non-Muslim Country or in a Dar-ul-Harb since a non-Muslim country can be a Dar-ul-Amaan (country where Muslims live in security)?
2. He says “The verses of the Holy Quran which prohibited Riba did not differentiate between a Muslim and non-Muslim.” His view is correct only in regard to the fact that Muslims cannot deal on an interest basis with other Muslims or with non-Muslims. However, since the instruction of the Qur’an is directed to Muslims, we cannot stop non-Muslims from dealing on an interest basis.
3. Mufti Taqi does not answer the questioner who asks “**Can we take interest-bearing loans from government, Banks, Financiers (in India), for the purpose of doing business, or constructing a house?** The questioner is definitely asking about need fulfilment through business or the need to buy a house through a interest loan. Mufti Taqi does not discuss the dire need of a Muslim. Does such a circumstance justify his taking an Islamically permissible loan or not? We are not living in the time of the Sahabah. We living in the real world of the 20 and 21 centuries, and live in non-Muslim countries and have dire needs that have to be fulfilled.

Mufti Taqi says: **Therefore, one cannot be advised to take an interest-bearing loan, even in a non-Muslim country.** He basis this on the Qur’anic prohibition and on the fact that there is no example of the Sahabah who have engaged into an interest transaction. Firstly, The Qur’an is not denied. Secondly, is there in the Shariah, an allowance for some of the prohibitions of Islam, to be allowed in dire circumstances? The case of eating pork in a dire circumstance is noted but an allowance to eat it in dire circumstances is mentioned in the Qur’an itself.

With regard to the Sahabah, they lived in a given era with its own economic advantages and disadvantages. They were not bound to social, economic and political domains in the format that we have to deal with. The absence of a historical record relating to a Sahabi not doing an interest transaction after the revelation does not deny the possibility of them doing it. However, we accept that on the basis of the trust we confer to the Sahabah.

4. Mufti Taqi does not direct tell him that the issue of doing “Big business is something that he needs to personally acquire through capital, business acumen, advise of accountants, lawyers and other business professionals.

5. Mufti Taqi neither deals with the question “Can Muslims, for fear of paying government taxes in non-Muslim countries, conceal the extent of their capital and thus use bank finance (interest bearing) in order to reduce their tax liability.”