

علمی تحقیقی مجلہ فقہ اسلامی ۹۰ رجب الثانی ۱۴۲۷ھ ☆ مئی - جون ۲۰۰۶

What do the ulema say about the passages in Fathul Qadeer and Shami which appear to state that the Hanafi position (at least that of tarfain) is that it is permissible to take advantage of this when the benefit is for the Muslim? If it is not permissible then please explain these texts and the hadith "la riba bain al harbi wal Muslim" on which they are based.

If someone takes interest from the kuffar on this ruling is he committing haram or makrooh act?

If it is permissible then can this money be used to fund the activities of Muslims in these countries for the sake of deen such as setting up Muslim schools etc.

I do not require a fatwa but merely the opinion of the ulema such as Mufti Taqi Sahib, as I realize that sometimes their opinions may be different from the legal fatwa which is required for the people. [Molvi Nazim Ali]

A 2.) Transaction of interest with the non-Muslims in Darul Harb was allowed by Imam Abu Hanifa subject to certain conditions but the majority of the Fuqaha including the Hanafi jurists have not accepted it and the Fatwa has always been given on its impermissibility. You can find full discussion on this subject in the detailed treatise written by Maulana Zafar Ahmad Usmani under the title "Kashf-al-Dujah" which is published in 3rd volume of Imdad-ul-Fatawa which you may please consult for the details.

However, even following the majority view of the impermissibility of Riba in Darul Harb the interest received from Darul Harb can be used for charitable purposes like helping the needy persons who are entitled to receive Zakat but in no way the amount of interest can be used for one's own benefit.
By Mufti Taqi Usmani.)

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Riba in Dar-ul-Harb

Q 1 Is it permissible to obtain an interest based loan for a home in America on the basis that America is Dar-ul-Harb?

I understand that a Mufti from Deoband gave a fatwa saying it is permissible for Muslims in India to give and receive loans on interest since India is Dar-ul-Harb. If it is permissible, on what basis and are there any restrictions? This is a very big issue in the US since Muslims cannot purchase homes on interest, there are no interest free banks and rentals for flats are the same as paying mortgages. [Junaid Noormohamed, Chicago, IL, USA]

A 1.) Although some past jurists were of the view that *riba* transactions with non-Muslims in Dar-ul-Harb are not impermissible yet this minority view did never find favour with the bulk of the Muslim jurists throughout the world. Their main argument is that the prohibitions imposed by the Holy Quran are of universal nature and do not differ from country to country. For example, drinking or selling wine to non-Muslims in a non-Muslim country is as prohibited as it is in a Muslim country. Likewise adultery and prostitution in a non-Muslim country is as impermissible as in a Muslim country. The case of *riba* is not different on this score. Its prohibition stands operative throughout the world, therefore, it is not allowed for a Muslim to transact on the basis of *riba* even when he is in a non-Muslim country which is termed as Dar-ul-Harb. Therefore, it is not permissible for Muslims living in the Western countries to enter into a loan transaction based on interest even for the purpose of acquiring a home. That is why Muslims in these countries are trying to establish their own institutions for house financing. A number of such institutions have been established in North America and U.K.

Q 2.) Please clarify for me the exact Hanafī position on the taking of interest from the kuffar in dar-ul-harb. Is it permissible to take advantage of the interest offered freely by these people or not?