

FATAWA ON MORTGAGE

I. INTEREST-BASED FINANCING OF HOUSE AND CAR IS PROHIBITED

SUBJECT: Car and house purchase with conventional loans

From: scitech@islam-online.net

Date: 10/4/00

Your question is about car and house purchased on the basis of Riba, what to do?

Dear Brother Saqib
Assalamu Alaikum,

My Answer:

al Hamdu li Allah wa al Salatu ala Rasuli Allah,

If you live in America, Europe or any other country as a Muslim minority, and if you need the house for residence in such a case where there is big inconvenience for you to rent for any reason if family, neighborhood, school, children, etc. Then the opinion of the SSANA in its Second International Fiqh Conference in America may apply to you that it is permissible under the circumstance of big inconvenience to buy a house on interest basis if you could not manage to buy with the help of Islamic financial institutions or goodly loans from individuals. The same thing applies on the car that you dearly need for going to work, school, shopping and other needs.

under all such cases keep seeking Allah's forgiveness and keep trying paying the principal of the loan with any money you can lawfully get in order to rid yourself of the Riba as soon as you can,

wa Allahu A'lam
Monzer Kahf

SUBJECT: Rationale for the prohibition of interest financing of houses

From: dialogue@islam-online.net

Date: 1/27/2001

Name of Questioner

Gender

Age

Education

Date Submitted: 1/4/2001

Email

User Ref. No.: YTY65Q

Question

Salaam, Why is it Haram to have a mortgage? What alternative would you suggest to people wishing to own there own place? There are no Islamic banks so in such a situation why can we not take a mortgage? I personally see renting as "dead money," at the end of

the day what you're paying for is not yours. What is your opinion?

My Answer

Dear Br./Sr. (who did not give name)

Assalamu Alaykum wa Rahmatu Allah Wa Barakatuh

My Answer: Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah

Mortgage is forbidden because it is based on Riba (interest) and interest is unjust. It gives one party a secured future income in exchange for an expected benefit the other party in the contract gets from the loan. Such a benefit may materialize or not, depending on future circumstances. This in of exchange contract does not give its two parties equal treatment. You give a guaranteed return to one and you do not know what the other will get.. ...This is why Reba is prohibited and the Qur'an calls it getting the properties of others with no reason (akl amwal al nas bi al batil)..

Rent/lease is not like that. In a rent contract you give a given amount of money for a service that is well known and well defined, say of a house for a given period. It is true this service happens in the future, and you do not know what happens in future! that is why the Rent contract in Shari'ah, and in the law too, allows that if you could not get the service for a reason related to the owner of the house, e.g., did not give the key, or the characteristics of the property, e.g., a wall fell down without aggression from the tenant, you get deduction on the rent for the amount of service you were not allowed to receive. There are also reasons for such a reduction besides these examples that require more details outside this brief answer. That makes rent fair and riba contract not fair.

Further, it is not correct to claim that what you pay for rent is "dead money" ! it is what you pay for what you get, provided no fraud, deception or extortion was in the relationship.

That is why when a good group of Ulama met in Nov. 1999 in Detroit, they did not say that mortgage is OK, but they said it forbidden because it is riba based, but Shari'ah allows to relax the prohibition if there are no other alternatives available to the person and there is a real need for the residence because of family, children, safety areas, etc.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Mortgage and Riba

From: dialogue@islam-online.net

Date: 12/5/2001

Name of Questioner Ziad	Gender Male	Age 31-45
Education Graduate	Date Submitted 11/4/2001	Email
Country of Origin Jordan	Ref No WC24T	Country of Res. Jordan

Question

Assalamu Alaykum: would you please send me some information on the basic differences between mortgage and Riba and on the right way in Islam to do mortgage. May Allah bless you. Salam.

My Answer:

Dear Br. Ziad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The International Webster New Encyclopedic dictionary defines mortgage as a conditional transfer of a property to a creditor as security for repayment of money. in practice of home purchase financing in the united states, mortgage means getting finance form a bank, conventionally on the basis of interest and recording a lien, normally, on the same house to the benefit of the bank until full payment of the amount financed and interest accrued is done. Normally payments are made equal and monthly, so that each installment consists of the interest due on the balance from last month and a portion redeemed of the principal financed.

Riba in Arabic language is increase or increment. Riba is defined in Shari'ah as an increment in an exchange contract that has no Shari'ah recognized counterpart. The OIC Fiqh Academy of Jeddah and the Research Academy of al Azhar in Cairo and the overwhelming majority of Muslim Scholars ruled that interest that appears in banking transactions is the same Riba that is forbidden in the Qur'an.

Finally, Islamic financing may have liens on any property as a security for repayment of the money financed, i.e., it may have mortgage, in the language meaning, without being based on interest (Riba).

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Rationale for the Fatwa on Mortgage

From: fiqh@fiqhouncil.org

Date: 12/13/2001

Question

Dear Dr. Monzer,

Assalamu Alaikum

It seems to be that a lot of Muslims are keen to know more about Zakah rulings, especially in the blessed month of Ramadan. We have received to following two questions, somehow they are related to the ones that you have answered before:

1. What is the current resolution on getting the mortgage loan which is interest and is not allowed in Islam, according to my understanding, under any circumstances?
2. Is Zakah due on land purchased, on cash basis of course, to build your own home on it in the future like in two to three years or more for that matter.

Blessed Eid

My Answer:

Dear Br.

Assalamu Alaykum WA Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Please accept my Salam and greeting for the blessed final days of Ramadan and the coming Eid to you and to the Fiqh Council of North America (although you did not reveal your name)!

1 - With regard to the first question about mortgage, there is no doubt that Riba is forbidden and it is considered in Shari'ah one of the worst sins that provokes a declared war on the sinner from Allah, Ta'ala and from His messenger. There is no doubt too that interest as practice in banks is Riba.

The matter comes from one angle only that is whether there may be circumstances that render a prohibited matter tolerable, or permitted. Necessities do that because our religion is based on removal of hardship (Raf' al Haraj). The rule of necessity applies when there are strong reasons to believe that, under the existing circumstances, abiding by a given rule of prohibition results in essential damage to any of the five basic things for whose protection and for whose promotion Allah Ta'ala sent down the Shari'ah, namely: life, religion, mind, posterity, and property. One degree below necessity is al Hajah (you may translate it as need and removal of difficulties). This is where an action is not really essential to safeguard a basic thing but it is very important for it. In other words, not taking such an action results in substantial difficulties that are, though bearable, harsh and hard to live with. When a Hajah affects the whole society, or a class of persons such as physicians, construction workers, nursing mothers, high school students, married people with children living in certain area or country, etc., such a Hajah become a Hajah 'Ammah (a universal need) because it, generally, applies to all members of that group. A Hajah 'Ammah is treated in Shari'ah in a way similar to necessity, i.e., it is upgraded to the level of necessity in its effect on prohibited matters.

This Hajah 'Ammah is a basis for relaxing the prohibition of Riba in the case of residence home mortgage.

There is another basis too. It relates to the geographical scope of the law and it is interesting to know and appreciate. It is the stand of a great 'Alem of the caliber of Abu Hanifah and Ibn Rushd (the grand father, who is the most prominent Malikite of all ages). Their argument is that the prohibition of Riba is one of these matters that came in Shari'ah to protect the property of contractors in any exchange contract, so that the obligations of the two parties in an exchange contract would be equivalent to each other. This balance in contract is one of the essential features, call it condition in all exchange contract permitted in Shari'ah. Riba is different of, say, dishonesty or Zina (adultery/fornication) as the latter is kinds of moral decay whose prohibition is intrinsic. If the purpose of the prohibition of Riba is to protect properties of the parties in a contract, this does not apply outside the geographical scope of the Islamic law, Shari'ah, i.e., outside Muslim countries. This is an important rule in international law that was well understood by these great scholars. It results in a ruling that the Shari'ah is not required to protect the property of a contractor outside the Muslim land, which means that while a Muslim is religiously required to protect her/his own property anywhere, the Islamic law does not need to protect the other party's property outside the Muslim land, i.e., you can take Riba from the other contractors in this case but you must not give it to him because

this benefits you and does not waste your property. The late Shaikh Zarka adds that this argument for taking not giving is based on what is to the benefit of the Muslim in a contract, but if it become more beneficial to her/him to pay interest, as is the case in mortgage with the tax and ownership advantages in comparison with renting, then the argument of Abu Hanifah applies to mortgage as its final sum ends up more beneficial to the Muslim's property. In the Resolution of the First International Fiqh Conference held in Detroit, fall 1999, reference to this argument was skipped in the final draft only. Notice that this argument centers on the financial advantages alone which is in general one of the five matters that need protection and promotion.

On the other hand, there is the classical argument that does not take the circumstances in North America as applicable to the Hajah 'Ammah, though the premises that necessity and Hajah 'Ammah as foundation for relaxing a prohibition are not denied. When faced with the needs of American Muslims, some of those who oppose this resolution said "then you guys must migrate to Muslim countries!" not realizing that many of us have no other home than North America and many have actually escaped the Muslim countries because of multiplicity of reasons, not the least of them are economic opportunities and political harassment.

Most important than all the above is that we Muslims in North America must expend all effort we can for establishing financing contracts compatible with Shari'ah, especially within the main stream of the financing industry by developing contracts, compatible with Shari'ah while the fit, at the same time, the American law and the requirement of main stream financing institutions.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: What if the Islamic financing is more expensive?

From: dialogue@islam-online.net

Date: 1/8/2002

To: abuasood@hotmail.com

Name of Questioner Mohammad

Gender Male

Age31-45

Education Post Graduate

Date Submitted 12/27/2001

Email

country of Origin Jordan

User Ref. No. LXP73P country of Res. Jordan

Question

GENERAL, SHORT: Someone may say that Riba was prohibited to prevent usurping of the poor by the rich. If the claimed "Islamic" solutions to home financing are much more expensive than mortgage, wouldn't that be against the wisdom of prohibiting Riba? 2. MORE SPECIFIC, LONG: What is your opinion in purchasing a home via: a) An "Islamic" financing system. For example, as explained in <http://www.lariba.com/financing/home-mail.shtm#OVERVIEW>: b) Another "Islamic" system if you deem the above site "un-Islamic". If you know specific web sites that you recommend, please suggest. c) Regular mortgage

if it was much cheaper than all the "Islamic" alternatives.

My Answer:

Dear Br. Mohammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Your assumption is partially correct, among other objectives, Riba aims at preventing exploitation of the poor by the rich. The Basic and General objective of the prohibition of Riba is to bring Balanced (you may call it justice) in exchange contracts. A Riba-based contract is imbalance because one party gives the other an amount and takes it back larger with no service or goods sold. Riba assumes that the borrower makes money using the loan given to her/him and Shari'ah does not accept to found exchange contracts on assumed goods or services one party may get from other sources. This means that Riba is prohibited even if the poor, rather than the rich, exploits the other. Riba is prohibited as an economic system because the contract itself is imbalanced. The best who expressed this was the late Shaikh Muhammad Abu Zahra in his booklet "Tahrim al Riba Tanzim Iqtisadi" [The prohibition of Riba is as an economic system].

Obviously exploitation of the poor is also forbidden, whether by means of a Riba contract or by any other contract. Further, the prohibition of Riba does not give approval for those persons and institutions that provide non-Riba financing to charge higher rates for their services. Charging higher rates by companies that provide Islamically compatible financing is a form of selling religiosity to persons and is certainly not acceptable. You may like to consider also that the cost of some of such companies may be higher than those who provide Rib-based home purchase financing. This may not be caused only by managerial inefficiency, which may not be the case sometimes at least. It may be caused by economies of scale that they are small and riba companies are big that the latter can give lower price.

You may also realize that it will be unfair to give Fatwa about what some businesses do. I WILL NOT GIVE AN OPINION ABOUT ANY COMPANY IN THE FIELD AND WILL NOT LOOK AT ITS WEBSITE NOR WILL I SUGGEST ANY OTHER SPECIFIC COMPANY.

For you second (long) question, the Fatwa of the Fiqh conference held in Detroit, fall 1999, consider non availability of Islamically compatible financing as a condition for resorting to conventional mortgages. Existence of Islamic financing at a substantially higher is equal to lack of it, because when we compare we have to compare equivalent things not transactions that have substantial differences. If Islamically compatible financing is offered at a substantially higher cost, not only those who exploit Muslim home buyers are sinful, but conventional mortgage may be resorted to provided other conditions of that Fatwa are satisfied.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying mortgaged debts at discount

From: Muab
Date: 12/31/2001

Question

Assalamu Alaikum Wa Rahmatullahi Wa Barakatuh

Dearest Shaikh Monzer,

My name is Musab and I write to you from Tampa, Florida. InShaAllah you receive this letter and you and your family are all in good health and Iman.

Recently, I was introduced to a type of business venture to which I was highly doubtful of. I wasn't sure whether this kind of business is Haram or not. I asked the question to Ammu Saleh and he told me to ask you due to his lack of Islamic knowledge in this topic. Here is the situation and my questions to you.

Many individuals in America wish to purchase homes but do not wish to ask the bank for a loan. Their reasons may differ, mainly because they know the bank will not approve them. What they do instead is go directly to the home owner and try to work out a deal. So instead of having a public bank mortgage, the buyer has a private mortgage. The seller of the house contracts the sale the same way the bank does, mainly applying interest to the sale and taking an initial down payment. After sometime, the seller of the house may wish to sell his private mortgage for instant cash. He will take his personal mortgage paper and put it for sale through some ad. This is where I am doubtful and need help in.

Question 1: Is it Haram to buy these mortgages with the intent of selling them? Let me be specific. There are companies out right now which are interested in buying personal mortgages. This is where I fit in the picture. What I do is go and make an offer price to the holder of a mortgage, say for \$10000. If the owner decides to accept, what I would do is go and ask this company if they are interested in buying a private mortgage. If I give the company the details of the payments involved on the mortgage (ex: 100 payments of \$500/month for the next 5 years) and they accept they offer me \$15000. What I do then is buy the private mortgage with the \$15000 the company provides me, I give them the mortgage paper, give the seller their \$10000 and in the end, I keep \$5000. It's that quick and that easy to do. Specifically, is it Haram for me to be the middle man for this company and seller of the mortgage, even if I don't use any of my money?

My second question is: what makes a mortgage contract Haram? If I decided to buy the mortgage, what conditions would I have to change within the contract with the buyer of the house so that the mortgage could be Halal?

These are the questions that I am uncertain of the answer. I know you are busy.

Jazakallahu Khairan for taking the time to read this email. Could you kindly enlighten me with what Allah SWT has blessed you with? Jazakallahu Khairan. Was Salamu Sincerely, Musab

My Answer:

Dear Br. Musab

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The problem with conventional mortgages is that they are interest-based. Interest is

forbidden as you know. It is the same thing that is called Riba in the Qur'an and it is one of the worst sins from the point of view of Shari'ah. As you know, a conventional house mortgage goes as follows: A prospective buyer finds a suitable house, negotiates price with seller, and negotiates financing arrangement with a bank or a financier. The agreement, finalized at the closing, contains a down payment paid by purchaser, rest of the price is paid by financier to seller, incidental cost and charges are settled, amount paid by financier makes a loan to buyer with repayment on installments including interest, this debt is supported by a lien on the property.

Please notice that this transaction created a debt in the amount of principal, payable with interest at a certain schedule over a given number of months/years. This is the Haram element in mortgage.

The prohibition of interest is a strong prohibition and the rule taught by the Prophet Muhammad, pbuh, requires that whatever is prohibited must, all, be avoided "and what I ordain you not to do, avoid it?" Hence all forms of interest are prohibited, so are all contracts in which interest is an element.

One of the applications of interest is discounting. Discounting is in fact reversed interest, i.e., paying cash (present value) a future debt after deducting from the nominal amount of the debt the deducted interest.

Another form of interest is selling a future debt at a present (cash) amount that is smaller than the nominal value of the future debt, (notice that this is the same as discounting).

(Note: There are two permissible transactions that are sometimes confused with discounting. The first is reducing the amount of a future debt if it is paid cash. This is usually called cash discount. It is permissible with two conditions 1- the transaction must be only between the debtor and creditor, e.g., you can't take the promissory note to a bank and take its present value cash, and there must be no prior agreement on discounting. This first transaction is called in Shari'ah al Wadhi'ah. The second permissible transaction is buying mature unpaid debts, not debts with future maturity, for less than their nominal values. These are usually weak and doubtful debts, instead of sending them to a collection agency and paying it for its services, the creditor may sell such debts to the agency at say half or third their face value. The condition here is that the due payment dates of such debts must have passed).

Your first question falls under discounting of future debts through a third party, who is you if you work on your own and make two discounting transactions one with the seller of future debt and the other with the banker or financier who pays you the 15000 for the debt you own. (The same prohibition applies if you work on commission basis to either seller or financier, then there would be one transaction and you are its middleman).

The answer to your second question is that there is nothing that makes a conventional mortgage permissible. In conventional mortgages, interest is a basic ingredient. And its only cure is to eliminate all interest and come down to the principal alone. From Shari'ah point of view only the principal is due to the creditor, regardless of the payment date. Obviously this cure is not acceptable to the creditor.

Furthermore, according to Shari'ah, it is Haram to buy/sell a future debt for lesser than its face (nominal) value. Buying a mortgage, as you described it is dealing in Riba. Actually the buyer is taking part, big or small, of the interest that was charged by the seller of the mortgaged when he/she sold the house.

(Note: there are other ways of buying houses on installments without interest, one of

them is close to what you described, i.e., to have personal financing from the seller [notice that I did not call it mortgage though it has mortgage but its mortgage is not conventional]. the parties calculate the amount of increment they want to add because of the postponement of payments and inflate the house price by that amount. For instance a 100,000 house is sold at 300,000 with down payment of 10,000 and monthly installments over 30 years. Actually the increment is 200,000, it equals the amount of interest the seller wants for financing. But it is called price. In other words, Shari'ah permits inflating the price if the payment is agreed to be deferred to certain predetermined dates in the future with a mortgage lien marked on the property's records).

Once more, even the debt that results from this permissible transaction cannot be discounted or sold at lesser than its face, though future, value. And any such sale is Riba and prohibited.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying properties with interest

From: Islam on line
Date: December 21, 2002
Name of Questioner Assadullah Gender Male Age 46-60
Education Diploma Date Submitted 11/1/2002 Email
country of Origin Afghanistan User Ref. No. WNXBBG country of Res. Afghan

Question

Dear brothers and sisters, Assalamu Alaikum wa Rahmatullah, As you are aware many Muslims, using bank money and paying mortgages with interest, are buying houses, businesses and even mosques. Please let me know if there is a toast Fatwa in this regard.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Assadullah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Riba is forbidden in the Qur'an and interest is Riba. God pledged to preserve the Qur'an pure of any change, one then can be assured that the basic rule of Shari'ah will not be changed by any person or any events. One of the rules of Shari'ah is that necessities affect a relaxation of a given prohibition to the extent that a prohibition hinders the proper fulfillment of a necessity at its minimum level. What individual Muslims and non Muslims do does not change the rules of Shari'ah.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam
Sincerely,
Dr. Monzer Kahf

II. ALTERNATIVES TO INTEREST HOME FINANCING

SUBJECT: Bank funding of house purchase on Murabahah basis

From: Sami in Canada

Date: 10/12/00

Your question is about bank funding of house purchase.

Dear Br. Sami

Assalamu Alaikum,

I first thank you for your letter and its warm sentiments, I value it very much.

By the way are you from the Haddad who is related to Mrs. Fathi Yagan of Lebanon, once her brother or nephew was living in Ottawa and I met him several times.

My response:

The bank funding you mentioned is exactly the same bank mortgage, do you see any difference? You know that banks and mortgage companies give fixed and variable interest mortgages to borrower.

Can you make the following deal with the bank, especially you are paying high down payment: and I am putting it in a form of articles of the same contract (pl. excuse the unspecialized wording):

Article One: you request the bank to buy this house with you for the amount of say \$200,000, each will buy one half and pay for it cash and you promise to buy out the bank for say 150,000, payable on fully detailed installments (due date and amount of each)

Article Two: the bank accepts your offer and proceed with the purchase and asks the lawyer to make the title of the whole house in your name, one half as owner and the second half on behalf of the bank, and the bank puts a first lean on the whole house to guarantee that you do not make any transaction that jeopardize the banks interest.

Article Three: ha bank sells you the other half for the total figure amount of the installments with same details as above, and by virtue of this article the bank is going to transfer the ownership of its half to you once you sign the contract, by a separate letter addressed to you at least one minute after the closing. This is in exchange for the debt created on you of the amount of 150,000. These installments may be made in the form of promissory notes if the bank prefers it.

These are the basic points to make the contract a Murabahah one and remember the last letter must be made after closing, i.e., after the bank becomes the legal owner of one half of the house. The creation of the debt and signing the promissory notes can be done when you sign the contract with the bank, i.e., before closing.

The bank may like to add clauses for the cases of default and delinquency which may include interest, I suggest to permit that as long as your intention is to pay on time and

you know you are required to do that even if you take suitable insurance policy that covers payments in case of unemployment, disability or death.

I heard that the essence of this Murabahah contract is known to the banking Federal Regulator in the US.

If this could not be done and if you really need the house for family and children reasons, you may like to use the fatwa of the Shari'ah Scholars Association of North America in its Second Fiqh Conference held last Nov. in Detroit. The essence of it is that in case of needs and lack of availability of other contracts that are Shari'ah acceptable, people living in non Muslim societies may buy their residence house on mortgage, but not commercial properties and not without needs.

Sincerely you brother
Monzer Kahf

SUBJECT: Buying a house on installments

From: dialogue@islam-online.net

Date: 8/22/2001

Name of Questioner mohamed

Gender Male

Age 31-45

Education Graduate

Date Submitted 7/22/2001

Email

country of Origin Sudan

User Ref. No. 1HD29A

country of Res. Sudan

Question:

Assalamu Alaikum. If I want to buy a home suing my credit card, and to avoid (REBA), I made the bank to buy the home. Then, I made a separate contract-with the bank-to sell me the home on basis of monthly rates or bills I pay-to the bank until I complete the price for which the bank has sold me the home (regardless of the price with which the bank had bought the home). According to Shari'ah, is that Halal or Haram.

My Answer:

Dear Br. Mohamed Ibrahim:

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The way you described the financing with a Bank, the bank buys the house cash and via a second sale contract made after the bank becomes owner you buy the same at a higher price and with installments, is permissible in Shari'ah and called Bay' al Murabahah. This is a financing consisting of two sale contracts, each of them fulfills all of its legal conditions and people are free to contract such contracts with their own wills and consents. The price increment earned by the financier is a profit that resulted from selling a commodity at a price higher than its cost. This profit differs from interest as the latter is an increment on a loan. Notice that in the operation the way it is described, the financier bought and owned a commodity or property, an owner becomes responsible for all that affects an owned object including all risks owners have. In a loan contract the debtor guarantees the lender the full amount of the loan and the lender does not carry the risk associated with holding cash on hand because she gave the cash to the debtor.

Wa Allahu A'lam,
wa al Hamdu li Allah Rabb al 'Alamin,
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying a flat in UK

From: Islam on line
Date: May 05, 2002
Name of Questioner Muhammad Gender Male Age 31-45
Education Post Graduate Date Submitted 4/13/2002 Email
country of Origin Bangladesh User Ref. No. BETEND country of Res. U K

Question

Assalamu Alaikum. I am presently resident in the UK. I am planning to buy a flat for residence InShaAllah. I found out that there is Bank of Kuwait offering Murabahah or Ijarah system as alternatives to interest based mortgage in the UK. Because I would like to pay back my debt as soon as possible InShaAllah, the Murabahah system is not suitable for me, but the Ijara system is. Unfortunately, the terms given by them are less favorable. Besides, I also found that they charge more, so I actually end up paying much more for borrowing the money to them, than if I took out a mortgage from one of the high street based mortgage companies. I would like to pose my question to the European council of Shari'ah, if possible please, whose previous fatwa on Mortgage I have read in the fatwa bank. Under the circumstances, I would like to know, would it be possible for me to take out a mortgage from one of the high street mortgage companies?
Zajakumulllah. Allah hafez

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Muhammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa of the European Shari'ah Council and the Fatwa of the second International Conference on Fiqh in North America, that are almost identical, implies that any institution that offers Islamic alternatives for house financing, such as Murabahah and Ijarah wa Iqtina' (lease/ purchase) must offer it at competitive prices and conditions, they must not charge for the religiosity of the Muslim customer, and if such unfavorable conditions are imposed by an institution that offers mortgage, compatible with the Shari'ah you can't count it in comparison, on other word, incomparable disfavored cost and conditions make such an alternative not available and the Fatwa that those who need housing may resort to conventional mortgages applies. I do not believe that a costly or unfavorable alternative may be considered a viable alternative to conventional mortgage and therefore it is discarded as if it does not exist.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: PERSONAL LEASE/PURCHASE

From: Islam on line

Date: March 07, 2002

Name of Questioner Mohammed Gender Age

Education Date Submitted 2/15/2002 Email

country of Origin User Ref. No. BA4ZP1 country of Residence

Question

Is this Riba? My brother would like to buy a house. I would like to help and invest at the same time. I plan to buy the house for him and charge him a reasonable rent. Each month he will be paying me the rent and extra money until he pays the price of the house. In other words, his ownership of the house increases every month (and my share of the rent decreases) until the price of the house is paid to me. My questions are: is this permissible? If yes, are there circumstances under which it becomes Riba? Jazakom Allah Khayran

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Mohammed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Please remember first that we don't give you any legal opinion, and both myself and Islam on line do not claim any legal expertise not we present ourselves as legal advisers. and we deny any liability resulting from any use or abuse of our purely Shari'ah opinions. You did not mention your country of residence but we are sure that all countries have legal professionals and we advise you to consult your own legal adviser before you take any action, THE FOLLOWING IS NOT A LEGAL ADVISE.

The essence of this transaction is permissible in Shari'ah. From Shari'ah point of view, it can be implemented as follows: Step 1) search together for the house and make the purchase in your name. Step 2) make a written promise that you will be willing to sell him the house for certain amount (e. g., the cost of purchase), but each time he gives you a payment you will sell him a portion of the house in the proportion of the payment. And at the same time, agree on a periodic rental amount, and rent him your share of the house for a percentage of that rental amount equal to the percentage of your share to the house. Step 3) in implementation of the promise in step 2, whenever he gives you a payment you sell him a proportional share of the house. Step 4) whence payments are complete, transfer title of the property to your brother. If there are substantial costs for closing and you want to avoid double closing, make the house in his name from the beginning but make an agreement between you that you appoint him as your agent to buy the house in

his name but for you and that he acknowledge that the house is yours etc.... (must be completely legal. This power of attorney can be supported by a lien you record on the title of the house without having your name appear as owner on the title, then whence payments are completed you give him a quitclaim.

It becomes interest if you give him the amount as a loan and charge return on it. It becomes similar to interest, i. e., prohibited if instead of the promise, you sell him the house on installments and again charge rent, because if you sell on installment he becomes owner of the full house at the time of installment contract, and the rent you get becomes Haram because it is for a property you don't own.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying a House in Canada where the Islamic Housing Cooperative has difficult uncompetitive conditions

From: Islam on line
Date: May 05, 2002
Name of Questioner Iman Gender Female Age 21-30
Education Date Submitted 4/19/2002 Email
country of Origin Czech Republic User Ref. No. 548CNP country of Res. Canada

Question

Assalamu Alaikum, I'm asking you for a help, will it be Halal for us to borrow money from a normal bank, even thou we have found an Islamic Cooperative, which we feel is not the one what will help us to move in to our own place this summer or near future???

Notes: I need a help in deciding to do the correct thing. I (with my family) and my sister in Islam (with her husband) want to buy a triplex or 4 plex here in Montreal, Canada. We had been searching for an Islamic House Cooperative, and finally we found one, but to our disappointment, we found out, that there is a big waiting list (minimum a 1 year long), we would have to give 20% up front and buy a membership of 2000\$, plus we would be allowed to buy only a small house for maximum 120 000, or big for 200 000 but we would have to give instead of 20 % 90 000\$, what is impossible. Plus, we would pay now, and when our turn would come, they will notify us 4 months ahead to look for a house. They are going to take for them selves amount which ever they would calculate as an average rent for an apartment big as the house, (meaning rooms). I had a real hard time to find out what is Islamic in that. If I do think that in a normal bank it is much better deal, and I will be able to have a house now. I have 2 children and we are growing out of our apartment. We will have to move and we find it is much better for us to pay for our own place, then to give it to someone else. And we find that the best way how to get a house for us, is to invest into a plex and use this money to buy our own house.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Iman

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If there is a financial institution that offers house financing on contracts accepted in Shari'ah, but it asks for higher prices or unfavorable conditions, such as more down payment that one can't afford, you base your decision as if such an alternative is not available. Hence, if a family needs housing it may go for conventional mortgage in accordance with the Fatwa of the Islamic Shari'ah council of Europe and the opinion of the Second International Fiqh Conference of North America held in Detroit, Fall 1999.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying houses directly from builders

From: Mufeeda

Date: January 10, 2003

Question

As-Salamu Alaykum! Would you please give us an answer to the following question in regard to mortgage.

Is buying a home from a company (USA) that "provides both Home Services (houses), Financial Services (mortgage) allowed in Islam?

The question is about buying houses from companies that specialized in " building and related services:

Home Building, Home Services, Financial Services, Contracting and Construction Services, Investment Real Estate" is permissible in Islam?

In other words, buying a home from a company that provides both houses and the mortgages. "No banks are involved and owned fully by the same people"

Some might say this kind of trade/transaction is allowed since:

- 1- That company owns the property and they sell it to consumer through their own mortgage
 - 2- There is not third-party (bank) involved,
 - 3- The buyer dose not pay interest on the money but rather on the house purchased
- Jazakallahu Khairan

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Mufeeda

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I am sorry for the delayed answer because I was out of the country last week.

If this transaction is done on the basis of installment sale with this company directly, it is permissible even if you know that the company gets its financing from banks because this is not of your business as far as the contract between you and the company is concerned. Installment sale is like this: although we know that the cash price if the house is 300,000 you buy it for 800,000 payable on installments for 360 month, on the rate of 2222.22 every month. It is permissible to have mortgage (lien) on the house for the amount of the debt

If the contract says that the house is sold for 300000 and a loan is given by the company for the amount and an interest rate of so much and the total become 800000, that is interest (Riba). This is not like installment sale.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in the USA from builders

From: Islam on line

Date: January 26, 2003

Question

The question is about buying a home in USA from companies that provide both Homes and financial Services (Mortgage). Is it permissible to get a home mortgage from those companies which sell you the house and provide the home buyer with a mortgage also?. There is third-party involvement such as banks. Some people say it is Halal since these companies own the properties (lands, houses, etc) and they sell it to you by providing the consumer with their own Mortgage.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If the company's contract is such that it sells the property, a house, on installments for a price that is above the cash price, the contract is permissible, even if the contract itself says that these installments are calculated on the basis of so and so rate of interest. And it doesn't matter to you if the company assigns the contract to some other party like a bank. but if the contract says that the price is say 200 000 and the company is giving a loan at certain rate of interest to pay for it, this is Riba, the same as if the loan were from a third party.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

III. FINANCING HOUSE PURCHASE IN THE WEST

SUBJECT: Criteria of necessity to buy a house on interest

From: dialogue@islam-online.net

Date: May 11, 2002

Name of Questioner Samira

Gender female

Age 31-45

Education Graduate

Date Submitted 4/20/2002

Email

country of Origin

User Ref. No. 6GFTL2

country of Res. U S

Question

Assalamu Alaikum, I read about the fatwa of buying home through mortgage and the key of that fatwa is two things Islamic solution unavailable and necessity for home buying.

My question is what are the criteria of necessity? Who can set the situation of necessity?

Jazakum Allah Khair

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Samira

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You are right in pointing out the two points, but I have to amend the second one a little before giving my answer: 1) lack of contracts acceptable to Shari'ah, this can be tested objectively that is non availability of such contracts that provide the same service at the same cost. 2) a Hajah (not a necessity) that affects large group of people or the whole community. A Hajah is a degree less than necessity. Necessity is a thing without which damage may occur to one of the five things for whom nourishment and promotion the Shari'ah is went. These are, not in sequence: life, reason religion, posterity and property. its example is mentioned in the Qur'an (16: 106) a person threatened with death, and he knew it is serious because his father was just killed for the same reason, and forced to deny faith and curse the Prophet Muhammad. On the other hand lack of a Hajah does mat hurt but it makes the achievement of the objective difficult in a way that creates hardship for people. A Hajah fulfills an objective less than a necessity but more than just making things simply better. it is something that is essentially better without it fulfillment of the objective of the Shari'ah becomes substantially difficult, keeping in mind that every obligation in Shari'ah (as in any other system except anarchy, notice here we are discussing in terms of pure human rationale) implies a certain cost or effort, a Hajah is

beyond that level of cost or effort, it is a matter of hardship or very crucial benefit. Now your answer:

A Hajah (and the same applies on necessities to a lesser extent because necessities are more extreme) can only be determined or assessed by the concerned person herself, nobody else, only the concerned person knows for sure her needs, what creates hardship for her, what is essential and what is not. One must realize that one is dealing with God Who knows best and knows all, i. e., things that are inside our souls and things in outside. The assessment of Hajat (plural of Hajah) differ from one person to another, this is correct and natural. For instance, some person value safety more than money, while another sees it the other way.

The second part of your question is about what Hajat are in the issue of house financing under the American law. Hajat that are mentioned is the discussion of the Fatwa on house financing are of the following kind, examples only not inclusive: neighborhood safety, decency, cleanliness of drugs and crime, good schools, availability of rental housing with comparative cost, availability of housing for large family, closeness to Muslim and/or non-Muslim peers, the tax effect and the final cost, building equity, etc.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Getting an interest-based mortgage

From: Islam on line

Date: March 04, 2002

Name of Questioner	Gender	Age
Education	Date Submitted 2/5/2002	Email
country of Origin Australia	User Ref. No. LS6FI	country of Residence

Question

Hi, I'm a 22 year old Muslim female and I have a question on Usury. I have a lot of Muslim friends who are buying their first homes and investing in banks and so forth so they can make some more money. From my understanding and what I have read in the Qur'an, it says you can't go into anything that's involved with interest (Riba) as it represents that you are declaring war against God? How would a person so concerned about this get a loan without doing anything that is going to make them feel like they have committed a Haram act. I did get loans in the past but this is all before I found out about the whole usury thing. Now I don't want to get a loan at all as I know it's against our religion. But this however is causing friction between my partner as he wants to get a house and pay it off and says that's the only way we can do it as how are we ever going to afford to pay cash. I know what he is trying to say, but it's so hard as I don't want to do anything wrong by Islam if I can avoid it and do it another way. Have you got any suggestions on what one should do? Do you get a loan and pay it off or do you NOT succumb to societal luxuries? Are there other alternatives that someone can do? I don't

want to be declaring war against Allah, and I will do anything to make sure that I don't do that. Thank you in advance.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi Ajma'in

Dear Sr.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

May Allah Ta'ala bless and reward you and increase your Iman more and more. You are right that Riba is one of the worst sins a Muslim person may ever commit. It is War declared by God and His Messenger on the person who deal in Riba (by the way not by the person on Allah). Whatever one put in Riba seeking increase, it will not increase from the point of view of Allah Ta'ala. And Muslims must always be advised and reminded not to indulge in any Riba transactions. If it happened that they need to deal with non-Islamic banks, As the case in Australia, whatever interest that accrues must be given for general Muslim charity, not as a Sadaqah but as act to keep one's money clean and pure.

There may be cases of necessity for housing and other matters in which some Muslims may be excused in getting Riba-based mortgage if there are needs or quasi needs that may relax the prohibition, because Shari'ah does not impose hardship on Muslims nor on others.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: The Fatwa on home financing in Western countries

From: dialogue@islam-online.net

Date:

dated 5/1/2001 3:22:01 PM Pacific Daylight Time, dialogue@islam-online.net writes:

Please answer the following question and return it to my e-mail. Jazaka

Allahu Khairan.

Your Brother in Islam,

Waleed

Questioner Details

Name of Questioner Muhammad

Gender Male

Age 31-45

Education Graduate

Date Submitted 4/17/2001

Email

country of Origin Pakistan

User Ref. No. G2BEA6

country of Res. Pakistan

Question:

Assalamu Alaykum, I need all the information that I can get on the Fatwa that allows Home financing for Muslim in a non-Islamic state where Islamic Financial Methods are not adopted. Wassalam Alaykum Muhammad

My Answer:

Dear Br. Muhammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The written resolutions of the first international Fiqh Conference in North America and of the Islamic Council of Europe must be obtained from the SSANA and ICE respectively. Also there is a discussion of the same over several pages of the Book Fatawa of Shaikh Mustafa al Zarqa (Arabic). It is published in 1999 shortly before the late great Shaikh died.

However, all these are not general Fatawa for "buying homes in non-Muslim countries. They are for specific conditions in North America and in Europe. The essence of these Fatawa is: If you have family, and face problems of finding rental residence and of good schooling and acceptable level of security and safety and there are no other institutions that provide financing by means of contracts that are permissible in Shari'ah, then it becomes a general Hajjah that calls for relaxation of the prohibition.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying homes in Canada

From: dialogue@islam-online.net

Date: 5/11/2001

Name of Questioner Mel

Gender Female

Age 31-45

Education Diploma

Date Submitted 5/4/2001

Email

country of Origin Egypt

User Ref. No. I8N3ND

country of Residence Canada

Question:

Greetings. I'd like to ask 2 questions, & thank you in advance for your answers. 1) Is tattoo for females on an unexposed body part allowed/permitted or not. 2) Some people asked you a question about Mortgage with a non-Muslim bank, due to the lack of any Muslim banks where they reside. Your answers were yes, but at the same time no. This is confusing to me. If my rent is \$810/m & I can actually buy an apartment & pay this amount as mortgage, can I do that? Thanks again for your reply.

My Answer:

Dear Sr. Mel Abdel-Aziz

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - You better address your first question once more so it can be sent to a specialist, my specialization is in the area of finance, economics, Zakah, Waqf, inheritance and trusts. However, Tattoos are, to the best of my knowledge prohibited whether in a part of the body that is exposed or not, because they are the same "Washm" Arabs used to do and the Prophet, pbuh, categorically prohibited it and mentioned that it bring the curse of Allah.
2 - I don't think I've ever given an answer of yes and no to a mortgage question, please be sure about it and send me to previous answer to review it.

Anyway the Interest-based mortgage in the West is very much discussed in The Resolutions of the First International Fiqh Conference in North America (Detroit, October 1999). The opinion (of relaxing the prohibition to families who have no other alternative) is based on extent of family pressing needs, schools, safety and security, and social environment. It did not give appreciation to the net financial outcome of interest-based mortgage versus renting.

According to this resolution, net financial outcome alone is not sufficient to bear any relaxation of the prohibition of Riba as it is apparent in this kind or Riba-based mortgage transaction.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Rationale of the Fatwa on buying houses

From: From a live Fatwa Session on Islam on line, June 20, 2001
Abdul-Haqq Country Egypt Profession Student

Question

As'salaamu'alaykum respected Sheikh,
Could you please clarify the points of the fatwa issued by Dr. Yusuf Qaradawi on Mortgage? Jazka'Allahu'khairan

My Answer

The fatwa I am aware of Sheikh Qaradawi on mortgage is the one that came through the first international Fiqh conference held in Detroit, MI in the fall of 1999. This Fatwa is based on the situation of housing and house purchasing in America. In brief, it takes into consideration the need for residences for Muslim family in America, the lack of sufficient institutions that provide non interest based financing, the schooling environment and security consideration when selecting in America, and difficulties in finding decent rental residences especially for families with several children. With these considerations the Fatwa says that if no other means can be secured for purchasing a house for residence for Muslim families in America, Muslims may take the interest-based mortgage for buying there own residences. The Fatwa takes into consideration the opinion of Imam Abu Hanifah, with regard to transactions in non-Muslim countries with non-Muslims, this opinion is also shared by the Maliki school as explained by Ibn Rush in al Bayan wa al Tahseel and Al Mukadimat, although this opinion is not mentioned in the text of the Fatwa itself.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on interest may cost less than renting

From: dialogue@islam-online.net

Date: 8/2/2001

Name of Questioner Mohammed	Gender Male	Age 21-30
Education Post Graduate	Date Submitted 6/27/2001	Email
country of Origin Pakistan	User Ref. No. TK5I9K	country of Res. UK

Question:

Assalamu Alaikum I am a professional working in London. The situation with regards to housing is that it is more expensive to rent than to make mortgage payments. Many brothers have come to me saying there are Fatwas which allow you to take mortgage. I have still not taken one though. There is now the Kuwait bank in London which claims to offer a Halal method of purchasing your own home, - do you know about this? In what exact circumstances is one permitted to take a mortgage and what are the conditions? Until recently I viewed Muslims taking mortgages to save on rent as having love for the Duniya. However, one brother said to me that he will not always be young and will need a place to live in his old age. (Tying the camel?) If the method of financing your home purchase is Halal from the Kuwait bank for example, then would you recommend renting or buying? What are the conditions? And if you buy a home you have a debt, can you go for Hajj? In the UK you have to take out compulsory life insurance cover which pays your mortgage if you die. Is this allowable or is it doing one Haram to cover another?

My Answer:

Dear Br. Mohammed Atif Raja

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

If the United Kuwait bank of London offers the same Manzil program it used to offer in America, through its now closed branch in New York, the program is compatible with Shari'ah, it is OK.

On the other hand the Fatwa is clear, that if one needs a house, for a multiplicity of reasons, including security and safety, family size, old age plans, schooling, etc. (and there is only one person who can decide this need, that is you and you are questioned only by Allah who cannot be deceived, no one else has any right to question your intention or your Shari'ah abiding attitude) and there are no Islamically compatible alternatives offered by Muslim or non-Muslim institutions, one may take the conventional mortgage and try to rid him/herself of it as quickly as possible.

Insurance is a controversial subject, and there are respectable scholars who see it permissible as it provides real service and the amount of Gharar involved is tolerable when you include the actuarial consideration.

Having deferred debts, as in case of mortgage, whether conventional or Islamic, does not affect the ability condition for making Hajj because these debts relate to future income not present asset at the time of Hajj trip.

Wa Allahu A'lam

Wassalam

Sincerely,
Dr. Monzer Kahf

SUBJECT: Necessities again

From: dialogue@islam-online.net

Date: 12/2/2001

Name of questioner Muhammad

Gender M

Age

Education Diploma

Date Submitted 11/19/2001

Email

country of Origin Syria

User Ref. No. 2I42F4

country of Res. Syria

Question:

My question is regarding what you call necessity of getting a mortgage in the US for buying a home. We are a family of three. We can continue rent a house or an apartment but that is starting to drain our financial resources. Also, we would like to have house with larger space because of increasing need for space and better living conditions. Is any of the above two conditions considered necessity in Shaikh Qaradawi Fatwa for getting a mortgage? The definition of necessity was not made clear. Some Shaikhs consider the above two conditions necessity other Shaikhs considered the necessity is when you will end up in the street or loose a life. Also notice that I check Islamic banking in the us and found them very expensive compared to the traditional US mortgage. To me Islamic banking is not affordable at this time. Salam Alaikum;

My Answer:

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The Fatwa of Shaikh Qaradawi, as included in the resolutions of the first international Fiqh Conference held in Detroit, fall 1999, does not mention necessity (Darurah). The Fatwa is based on general need (Hajah 'Ammah) that is treated similar to necessities in Shari'ah. a Hajah is less pressing than a Darurah. Darurah relates to basic protection, or avoiding massive destruction to any of life, religion, mind, wealth and posterity, those basic matters for whose protection and whose promotion Shari'ah itself is given by God, the Almighty. This Hajah 'Ammah is of those family for whom matters that include availability of housing at reasonably affordable cost, schooling, safety/security, decency of environment, finance, etc., all together make renting a hardship compared with buying through conventional mortgage. This Hajah 'Ammah is left undefined simply because people put different value-weights of different components. You cannot make a definition that applies to all. But it is important to keep in mind that Allah, Ta'ala is most knowledgeable as Abu Dharr al Gifari put it (wa l'lam anna al Naqida Basir). Make your own judgment on what removes hardship from your living and the life of your family, and be ready to answer Allah Ta'ala with the choice you made. Don't ask for a shaikh's opinion to lean on! It doesn't answer on your behalf on that Day!

Wa Allahu A'lam

Wassalam

Sincerely,
Dr. Monzer Kahf

SUBJECT: House purchase in Canada

From: dialogue@islam-online.net

Date: 12/5/2001

name of questioner shakeel gender male

age 31-45

education graduate date submitted 11/19/2001

email

country of origin India

user ref. no. nxrzc7

country of res. Canada

question

I am in Canada, I have a rented house since, 5 years, and the rents are going up every day, we always have dispute with wife, regarding house, as I have performed Hajj, and I do not want to get interested, by which my life has come to stand still.. As I was in Saudi, and never saw interest as here, in Canada, so I wanted the answer, I checked with many people but no one is able to help out with a perfect answer, about mortgage, and how to get out of it, and I visited many web sites, but it is very, difficult to come to conclusions.. Why don't the Muslims scholars, in north America, say one things so that every one knows what to do, instead, only they give, in a confusing directions, as I see there are many new people in Canada, and they are getting trapped, in the depth trap.. I would like to know why the.. Muslims scholars don't define the life, in the world more clearly, so that it will help people to know more, and. they get answer. How can the parents, answer the children? Kindly email me about this.. Thank u

Notes: Since question: how to solve the problem of mortgage, in North America. Give one answer, not many, and give answer which can keep things moving, and we solve the problems,

My Answer:

Dear Br. shakeel

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

You are asking someone else to do the job you must do yourself, and since inside yourself you don't want to do it you find it difficult and you don't want to face it. This is in my opinion exactly your dilemma!

The Fatwa is as clear as 1, 2, 3. 1)- interest is Haram and any contract, including conventional mortgage given in North America, in which interest is basic is also Haram; 2)- Muslims in North America must create institutions that provide financing services through contracts compatible with the Islamic Shari'ah; and 3)- cases of needs that encompasses many people or necessities allow for relaxation of prohibition. Be they any combination of security and decency of neighborhood, schooling, availability of rental housing, financial affordability, etc. Of course, needs and necessities can only be determined by the concerned person. No one can determine somebody else's needs and necessities.

Finally, In Toronto there exist an Islamic Cooperative Housing Corporation that helps providing house financing in ways compatible with the Shari'ah.
BTW, most banks in Saudi Arabia are interest-based banks, I wonder how you didn't see it!

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: should we sacrifice and pay rent?

From: dialogue@islam-online.net
Date: From a Life Fatwa Session, Feb 5,2002. at 2:00 pm EST
Name Dino

Question:

Assalamu Alaikum,

Dear Dr,

If it's ok to buy a property on interest based mortgage, in what situation is Riba Haram? Shouldn't we not take Riba or at least discourage Riba; as our sacrifice in this life (by paying rent instead of buying etc) will be compensated by ALLAH in the next life? What do you think? Thank you.

My Answer:

Wa `Alaykum As-Salam Wa Rahmatullah Wa Barakatuh.

In the Name of Allah, Most Gracious, Most Merciful.

All praise and thanks are due to Allah and peace and blessings be upon His Messenger.

Dear Dino:

Avoiding Riba completely is certainly the best solution. For involvement in Riba is the most serious sin because war from Allah and His Messenger is declared against those who undertake Riba transaction (the Qur'an in Surah 2, verse 279).

But Muslims like all other human beings have variant degrees of tolerance of hardships and one of the major objectives of Shari'ah is to remove hardships from the lives of women and men Muslims and non-Muslims alike. That is why necessities and general needs (needs in Shari'ah are lesser than necessities) are treated as circumstances where prohibitions are relaxed. We can make a general description of such general needs that relax the prohibition of Riba and permit Riba based mortgage transactions, but the application of such circumstances remain individual and thus place the burden of responsibility for such allowances on the individual who chooses to take them.

The Shari'ah came to promote and protect life, virtue (religion), mind and reason, family lineage, and property; any hardships affecting any of these aims calls for the relaxation of prohibitions especially when these hardships influence a large number of Muslims such as the Muslims community in America. These relaxation policies are not dependent on a life and death situation, but merely on difficulties posed to any of these five basic aims mentioned above.

The conclusion is: for certain people taking the difficult task of renting rather than building assets may be more rewarded by Allah, while for some others, taking a Riba based mortgage under circumstances that call for the relaxation of the prohibition may be more rewarded by Allah.

Almighty Allah knows best.

Monzer Kahf

SUBJECT: Buying a house in Canada

From: dialogue@islam-online.net

Date: 2/8/2002

Name of Questioner	Hisham	Gender	Male	Age	31-45
Education	Graduate	Date Submitted	1/24/2002	Email	
country of Origin	Palestine	User Ref. No.	WC4VYV	country of Res.	Canada

Question

Al Salam Alaikum: This is a brother living in Canada. I have a question that most Muslims in non-Muslim countries have trouble with. I have been married for two and a half years. My dream with my wife is to own a house, through Halal ways (mainly paying cash for the house). Since we got married, we've been saving every penny we can. My wife worked with me and we both saved our incomes to buy a house, a place that we can call our own to finally as Palestinians in origin, to own anything. So, now we thought that we can actually buy a house in Halal (cash, no mortgages or interests, or Riba), every penny is from our hard work, time and health. However, when we started looking for the place and house, we only realized that the house prices have gone up by almost 20%. So we are back to square zero. According to what's happening in North America nowadays, the prices will not go down, if they don't go up they will stay the same. To save the extra money on the house price, we need another year or two (if they didn't keep going up). We tried to look for Halal ways other than cash but none seemed to work. Here in North America they don't do Halal financing, and if we want to go to an Islamic company, they first make sure that the economy is doing well and that they will definitely make money (we already contacted them a million times, but they keep ignoring our calls). We feel that we are paying too much for rent (we currently rent a very small apartment, one bedroom only, and we are expecting to have our first baby in the next three months). We are squeezed in this little apartment, and when the baby arrives, it will only be worse. I already had to convince my wife that we can only buy a little bed for the baby, but we can't buy him anything else, since there is no room for anything else (the bed, we have to squeeze it beside ours somehow). She is patient and understanding, and wants everything in Halal, but I feel that my hands are tied and I can't do anything. I only need that extra 20% of the house price and I can buy her and my baby a nice new home. Believe me, I'm going for the cheapest and smallest house, nothing exaggerated, but I still can't even afford that. So many people told me to go for a mortgage from the bank, but I keep refusing. But finally I decided to talk to you through this e-mail to tell me what you think. I'm waiting for your reply with patience, and I hope you understand my situation. If you feel you need more details, feel free to contact me through this e-mail address, or even I can call you by phone if you wish. Thank you for your time, and waiting for your reply.

Al Salam Alaikum, Hisham.

My Answer:

Dear Br. Hisham

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

May Allah, Ta'ala, give you the blessing and reward for your keenness to act within the limits of Shari'ah.

The Fatwa on mortgage of the Second International Fiqh Conference, Detroit Fall 1999 made conventional mortgage conditional on needs (that are one degree less than necessities) and lack of other means. I suggest that you try other means before you go to conventional mortgage. As a young person you are among the luckiest Muslim because you were able to save some 80% of the price of the house you want, thanks God, while most others are not able to come with the 20% that is needed to get a loan!

I suggest that you try what is called in the US "land contract" that is to negotiate paying 80% cash and the 20% on 12 monthly installments. Many sellers accept such deals, it is permissible even if they add to the price an amount equal to the interest on this balance> Example: if the balance is 20,000 and you maid the deal at 104,000 of which 80 is paid cash and 24,000 (= 20 + 8%X20 on 12 monthly installments) this is still permissible from Shari'ah point of view.

Also have you tried to get the balance financed by the Housing Cooperative of Canada, located in the same offices of ISNA Canada in Toronto, I know that they find in such short term financing good opportunity to use their temporarily excessive cash. They usually go with you on buying and renting you their share with selling it to you on installment. Also do not rule out the potentials of personal loans from friends and colleagues, you can always divide the amount on several friends, don't tell me it is not possible, I know in many cases it is possible, put some effort in it

Finally, the estimation of need is left to you alone. No one can tell you that you are in need to buy through conventional mortgage except yourself. If all other means failed and you know it within you that you need to buy now, go for conventional mortgage, the Fatwa and the Opinions of Imam Abu Hanifah and the Maliketes support it.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: buying houses in the USA

From: dialogue@islam-online.net

Date:

Name of Questioner Ammar

Gender Male

Age 31-45

Education Graduate

Date Submitted 1/25/2002

Email

country of Origin Jordan

User Ref. No. RFXZC7

country of Res. USA

Question

Assalamu Alaikum Wa Rahmatullah Wa Barakatuh.. I'm living in the USA and I have noticed a significant number of Muslims who are buying houses through non-Islamic banks and with interest claiming that's OK based on Dr. Yusuf 's Al-Qaradawi (may Allah protect him) fatwa. Although they have no knowledge what so ever with his fatwa, only heard some one did so and some one else said I heard it's OK with no further details about the fatwa. Now my question is what's Dr. Yusuf Al-Qaradawi fatwa about buying a house through non-Islamic banks here in America with interest (in details please)? Were there any restrictions/conditions in it? Is it valid till this moment, since it's been out for two years by now? And what do you think about those people who I described above whom takes fatwa's by listening to the others without verifying the source and valid Islamic proof? Thanks a lot for your attention to this question which it really confuse me and I'm afraid to get involved in al Riba path and be a loser in this Duniya and hereafter. Jazakum Allah Khair.

My Answer:

Dear Br. Ammar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Let me please begin with the second question. It is permissible to take a brief or summarized Fatwa from a person who is trusted by you without getting all the details, as long as she/he gives it and you get it accurate. What matters is to get it accurately with all its conditions and circumstances because a Fatwa is always circumstantial; it is not a general rule. This is one reason it is important for the writer of Fatwa to know the circumstances of the questioner.

The Fatwa of Shaikh Qaradawi, that I know its details is the one that came in the resolutions of the second International Fiqh Conference in North America, Detroit, Fall 1999. It wasn't his alone; it was a consensus of a good number of Fuqaha, although some attendees did not accept it as it was a majority decision.

I am not going to quote verbatim, but since I participated in this conference and its discussion and gave a paper on the subject I feel I can give the exact version: Muslims in North America (May be in all non Muslim countries, at least those that have tax incentive for house purchase) have a multiplicity of needs to buy their own residences. these include: quality of schooling that is better in owned residential neighborhood than in rental areas; security and safety and level of major crimes; settlement and establishment, people feel settled when they own, it is a good feeling and it is recognized in Shari'ah, the tax incentive to the extent that under most circumstances one would be better off buying than renting, even you may end up paying less monthly amount, while increasing your equity (who can dare saying that Muslims are required to sacrifice their financial well being)? The availability of rental especially for families with large number of children, etc. All such needs (that are certainly less than necessities, one perhaps can manage without purchasing but there is a good amount of hardships of different kinds and forms) when they apply to a large number of people such as a neighborhood or a community, or members of a profession, etc., they are called general or public need [Hajah 'Ammah]. And a Hajah 'Ammah is treated in Shari'ah the same way necessities are treated, i.e., they relax a stumbling prohibition.

Certainly a Hajah 'Ammah does not exist if there are alternatives. Therefore the Fatwa emphasized that Muslims in North America Must first try creating suitable financial institutions, second must try with conventional institutions to formulate contracts compatible with Shari'ah, and when both fail or are insufficient they may go for conventional mortgage.

The Resolution (Fatwa) obviously did not (and cannot) put limits or levels on the need of each kind. This is apparently left to each individual between her/him and God. No one can tell you this is not a need for you because you are so and so, but it is need for someone else. Each person is more knowledgeable of her/his own need and remember that you will face Allah, Ta'ala with you excuse, if it is not valid you fail there.

In the last minute, and to get consensus (from the Hawkish) reference to the opinion of Abu Hanifah and the opinion of the Malikites was deleted and the argument was based only on the Hajah 'Ammah. But I think it is illuminating to understand this opinion. It depends on a rule that is unanimously agreed upon by all Fuqaha at all ages and in all schools, a basic rule of Shari'ah: Shari'ah is applicable only to Muslims as non-Muslims are called on to accept the basic pillars of faith before applying Shari'ah to them, and Shari'ah rulings are meant to achieve the Shari'ah objectives in relationships between people. Shari'ah aims at protecting the properties of all people who live under its rule, Muslims and non Muslims alike. The ruling on Riba is that it is unjust [Zulm] (the Qur'an, II: 279) and Shari'ah protects properties of all those who are under its laws from such injustice. But does that apply to people who live under other laws, especially laws that do not see it unjust? Both Shari'ah and any international legal relations do not allow Shari'ah, being a law, to interfere with other people in their lands. This is what Abu Hanifah calls "non-Muslim properties in non-Muslim land do not have Shari'ah protection [Hurmah] (and until this point all Fuqaha agree with him). Abu Hanifah and the Malikites apply this rule on Riba saying that "you can take Riba from non-Muslim in non-Muslim lands because there is no protection bestowed on that property." But you cannot take it without their consent in an agreement and you cannot take by doing an immoral act such as steeling or looting. The late Zarka argued that What Abu Hanifah meant by permitting taking it is to do what is more beneficial to the Muslim, hence if giving it through mortgage is more beneficial in the ultimate analysis, because of the equity and the tax relief, Abu Hanifah opinion still applied. Zarqa did not make any reference to the Malikites' opinion, which is the same, but Qaradawi and Monzer Kahf, each acting alone referred to it. Qaradawi quoted al Muqaddimat and Kahf quoted al Bayan wa al Tahsil, both by Abu al Walid Ibn Rushd (the grandfather)

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying first home in Australia

From: Islam on line
Date: March 04, 2002 6:05 PM
Name of Questioner

Gender

Age

Education
country of Origin Australia

Date Submitted 2/5/2002
User Ref. No. LS6FI

Email
country of Res. Australia

Question

Hi, I'm a 22 year old Muslim female and I have a question on Usury. I have a lot of Muslim friends who are buying their first homes and investing in banks and so forth so they can make some more money. From my understanding and what I have read in the Qur'an, it says you can't go into anything that's involved with interest (Riba) as it represents that you are declaring war against God? How would a person so concerned about this get a loan without doing anything that is going to make them feel like they have committed a Haram act. I did get loans in the past but this is all before I found out about the whole usury thing. Now I don't want to get a loan at all as I know it's against our religion. But this however is causing friction between my partner as he wants to get a house and pay it off and says that's the only way we can do it as how are we ever going to afford to pay cash. I know what he is trying to say, but it's so hard as I don't want to do anything wrong by Islam if I can avoid it and do it another way. Have you got any suggestions on what one should do? Do you get a loan and pay it off or do you NOT succumb to societies luxuries? Are there other alternatives that someone can do? I don't want to be declaring war against Allah, and I will do anything to make sure that I don't do that. Thank you in advance.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi Ajma'in

Dear Sister,

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

May Allah Ta'ala bless and reward you and increase your Iman more and more. You are right that Riba is one of the worst sins a Muslim person may ever commit. It is War declared by God and His Messenger on the person who deals in Riba (by the way not by the person on Allah). Whatever one put in Riba seeking increase, it will not increase from the point of view of Allah Ta'ala. And Muslims must always be advised and reminded not to indulge in any Riba transactions. If it happened that they need to deal with non-Islamic banks, As the case in Australia, whatever interest that accrues must be given for general Muslim charity, not as a Sadaqah but as an act to keep one's money clean and pure.

There may be cases of necessity for housing and other matters in which some Muslims may be excused in getting Riba-based mortgage if there are needs or quasi needs that may relax the prohibition, because Shari'ah does not impose hardship on Muslims nor on others.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in Canada

From: Islam on line
Date: March 14, 2002 8:07 PM
Name of Questioner Gender Male Age 31-45
Education Post Graduate Date Submitted 2/28/2002 Email
country of Origin Pakistan User Ref. No. 5CT1TN country of Res. Canada

Question

Assalamu Alaikum. We are a family of four with two kids living in a rented apartment in Toronto Canada. We always dream to have our own house. The financial institutions help to mortgage the house. That is the most common way to own a house in North America. I have read various Fatwas from Islam Online and other sites. Some scholars do not permit the mortgage at all but some do permit under certain conditions. I don't know where do stand while living in a rented apartment. Please explain whether I can go for mortgage to own a house or not.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You said you've read several Fatwas on Islam on line, so you know the answer.... Many thing in life are not so clear in black and white and many thing in life you will find several opinions about. You have to make up your mind on your own self and consult your own heart. There is no other way. I go along with the opinion of the Second Fiqh International Conference in North America. It was attended by Shaikh al Qaradawi, This opinion is also supported by the late Shaikh Zarka: A need that affects many people is treated like a necessity with regard to relaxation of a prohibition. There are needs like quality housing, quality neighborhood, lower crime areas, better schooling, saving on taxes and equity, etc. they all together make, in the opinion of the Conference a strong case for relaxation. Keep in mind that first Muslim must try to build institutions that provide Islamically compatible financing at similar cost, and second try to get Islamically compatible contracts from conventional mortgage companies. and relaxation of the prohibition is the last resort.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in UK

From: Islam on line
Date: March 17, 2002 12:19 PM
Name of Questioner Mustafa Gender Male Age 31-45

Education Post Graduate
country of Origin Iraq

Date Submitted 3/1/2002
User Ref. No. IRTUBB

Email
country of Res. UK

Question

Assalamu Alaikum. I live in UK and I want to buy a house. The Islamic banks are asking for higher deposits which I can not afford. Can I take a mortgage? Assalamu-Alaikum

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mustafa

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If Islamic banks do not offer competitive transactions to conventional banks, it means they are not providing the same service, as if they do not exist! The Fatwa does not mean that Muslims have to submit to a monopolistic treatment by Islamic financial institutions. Hence, if other conditions of the Fatwa about house financing through conventional mortgage are satisfied, yes, you may take a conventional mortgage.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Who determines the need of a family for a house?

From: Islam on line

Date: March 17, 2002 12:11 PM

Name of Questioner emad

Gender Male

Age 31-45

Education Post Graduate

Date Submitted 3/1/2002

Email

country of Origin Palestine

User Ref. No. D2JYN6

country of Res. USA

Question

Assalamu Alaikum, I read Dr Qaradawi's fatwa about taking a loan with interest based on necessity. Living in the expensive California state with a family of two kids and a high rent, does this qualify me for buying a house through the US banks? JAK, -emad

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. emad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa about mortgage of the Second International Conference on Fiqh in North America, Detroit Fall 1999, attended by Shaikh al Qaradawi and others has three

conditions for conventional mortgage: 1) Muslim are called on to establish institutions that provide Islamic financing for housing; 2) if this is not available, they have to try to obtain Islamically compatible contract of financing from conventional financing institutions; 3) if this is not available, those who have needs, caused by size of family, neighborhood, crime rate, schooling and education, financial and other considerations may take conventional mortgages as a last resort.

It is you, Dear brother, who will estimate your needs and value them, for some people the financial element may highly be valued for some others the educational one. etc. It is your own conscience that can decide about your needs, and you have to ask your own heart, keeping in That Allah Ta'ala knows even the very minute sentiments and feelings. No body else can answer this question. I know California that is where I live.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying an apartment in France

From: Islam on line

Date: March 21, 2002 5:43 PM

Name of Questioner	Maryam	Gender	Female	Age	31-45
Education	High School and Below	Date Submitted	3/5/2002	Email	
country of Origin	France	User Ref. No.	HMK3R	country of Res.	France

Question

Assalamu Alaykum I would be grateful if you could answer three questions: 1) We are presently renting an apartment and now my husband would like to buy a house on credit instead of renting the apartment. Is it Islamically acceptable? 2) When we are having lunch or dinner my husband does not want our sons to speak. What is Islam's position on this point? 3) I converted to Islam 8 years ago and I was a musician (just for leisure). Can I continue playing music? Thank you so much for your help. God bless you.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Maryam

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Sister, please resend your questions on Music and dinner, preferably separately, so they can be addressed to specialists.

The settled Fatwa is that if there are needs for to buy a house and no Islamic financing or financing from conventional institutions but according to Islamically acceptable contracts, such as lease/purchase, then it is permissible to get a Riba-based (interest) mortgage loan from a conventional lending institution. Needs are of the kind: difficulties in getting rented residence because of number of children, size of residence

needed, safety, security, financial losses including tax reduction and loss of potential equities, quality of neighborhood and of schooling, etc.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in Europe

From: Islam on line
Date: Feb 10, 2002
Name of Questioner omar Gender Male Age 31-45
Education Diploma Date Submitted 2/3/2002 Email
country of Origin Morocco User Ref. No. 7IHC4M country of Res. Belgium

Question

ASALAMOUALAIKOUM, I know that RIBA is HARAM, but in European countries, Imams said that you can for example buy a house with RIBA for personal use that means when you buy a house, you can not rent a part of your house (apartment)...
JAZAKALLAH.

My Answer

In the Name of God the Most compassion the Most Merciful
May All Praise and Thanks be to God, the Almighty, The Lord of the Worlds and Peace and Prayers be on His Messenger the Prophet Muhammad and all his Companions and Followers

Dear Br. Omar

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh

Riba is Haram and buying houses with Riba based loan is also Haram. Every forbidden act or contract may have certain circumstances that make it permissible such as necessities like matters of life and death. There are circumstances that are less severe than necessities but because they affect many people in certain area, they also relax the prohibition because Shari'ah is based on avoiding hardship and similar conditions. The fatwa is as follows: for Muslims living in Non-Muslim countries if they need housing and it is difficult for them to acquire them by means of contracts compatible with Shari'ah, it is then permissible to acquire needed housing via a Riba-based mortgage.

Wa Allah A'lam
Wassalam
Sincerely,
Monzer Kahf

SUBJECT: Renting versus mortgage

From: Islam on line

Date: March 27, 2002 8:13 PM

Name of Questioner	Toor	Gender	Male	Age	21-30
Education	Graduate	Date Submitted	3/22/2002	Email	
country of Origin	Pakistan	User Ref. No.	CFC5EX	country of Res.	USA

Question

Assalamu Alaikum: My question may already be one that has been hashed and rehashed through the years, but here I go anyway. It is regarding rent versus mortgage. What is the opinion on paying rent, say \$1500 on an apartment, or a lesser amount for a larger house on mortgage? I ask because friends and family have made the comment, "It may be Haram to pay so much in rent and not even own anything while you can have a mortgage and have your monthly payments go towards something". Assume that at the present moment, no interest-free banking system exists in the area. It's rent vs. interest-based mortgage.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Toor

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa of the second international conference on Fiqh in North America, that was honored by the presence of Shaikh al Qaradawi, considers the Hajah that applies to a large segment of Muslims, like the Muslim community in the West, or in the USA, similar to necessity in its effects on relaxing the prohibition of Riba provided there are no other means as is the case in the USA. Several Hajah, needs, were mentioned that include neighborhood, security, schooling social environment, taxes and building equities.

The point is that each one of us assigns different values to each of these needs, and no one has a right to assign or determined other peoples needs for them. It is your own heart and what you are going to tell God on the Day of Judgment, Your valuation of different needs is what determines whether you pay rent or take a Riba-based mortgage under the above mentioned circumstances.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: buying house in the USA

From: Islam on line

Date: May 02, 2002

Name of Questioner	khalid	Gender	Male	Age	31-45
Education	Graduate	Date Submitted	4/17/2002	Email	

country of Origin Pakistan

User Ref. No. F48BNF

country of Res. USA

Question

I am a married person living with my wife and 1 child. I have been in USA for five years, living in apartments and paying rents. Now I am thinking to buy a house for me and my family. I do not have resources to buy the house on cash. The Islamic institutions that provide funding here in TEXAS have a waiting period of 2 years plus I have to deposit 10,000 for 2 years to qualify. The other company requires 30 to 40% down payment and closing of loan in 7 to 10 years. I have read on your site that according to Shaikh Qaradawi Muslims can buy houses on MORTGAGE in US if they cannot buy it on cash or from Islamic finance institutions. I would like to confirm this (BUYING A HOUSE ON MORTGAGE) in my situation.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. khalid

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The opinion of Shaikh al Qaradawi is exactly as you stated and it is only for those who need to buy houses. This came in the resolution of the Second International Fiqh Conference in North America held in Detroit in the Fall of 1999. In application if Islamic finance institutions are not providing similar facilities one can go to conventional mortgage. Similar facilities must be at the same rate, so Muslim must not be charged more because they are religious, and those who can afford a large down payment must go to an Islamic institution that requires it but those who cannot can use the conventional services.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in France

From: Islam on line

Date: May 21, 2002

Name of Questioner n

Gender

Age

Education

Date Submitted 5/7/2002

Email

country of Origin

User Ref. No. HMJZYA

country of Res. France

Question

To Youssef Qardawi only please, We live in a small town in France. We have been living in a 3 bedroom house (3 children and 2 adults) which we pay (rent) 1200 francs a month. Recently we bought a land in France and we want to build a house: the thing is we don't have enough money: the only way seems to be to take a mortgage because mostly of its

advantage: when you pay your mortgage like a rent the council helps you (like housing benefit). What I would like to know if to take a mortgage in my situation is Haram or not? Thanks

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. N.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

First, I am not Dr. Al Qaradawi, and to get it to him personally you may have to make your question in Arabic. I may be able to give you a similar answer to his, at least based on my understanding of his opinion.

Your case is similar to many Muslim families who live in the West. There are advantages and avoidance of hardships in owning one's own residence. These include: financial, social, schooling, adequate home comfort, safety and security, government and especially municipal services, asset or equity building, neighborhood and peers and associates, etc. Each one of these factors and all of them together make a Hajah that applies to many Muslims to the extent that it is to be treated like a necessity from the point of view or relaxing the prohibition of Riba in case there are no other alternatives such as Islamic banks, house finance cooperatives, Islamically accepted contracts with conventional banks, etc. If that is the case and you think that your situation is included in removal of hardship and accrual of benefits is substantial, the Fatwa is that under such circumstances it is permissible to take interest-based loan or mortgage from conventional banks. One important thing: you and your husband are the only people who have to analyze your situation and make this decision.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house inAustralia

From: Islam on line

Date: May 23, 2002

Name of Questioner Ammar

Gender Male

Age 21-30

Education Graduate

Date Submitted 5/2/2002

Email

country of Origin Australia

User Ref. No. C2X32N

country of Res. Australia

Question

I am a Muslim Alhamdu li Allah, living in Australia. I have asked a few Muslim sheiks here in my area in regards to borrowing money from the bank for my first house. There seems to be great debate as to whether this is permissible or not in Islam. Recently, a fatwa was issued, stating something on the lines that people in foreign countries with no

Islamic law are permitted to purchase their first house with interest. So is this the case or not. Please confirm for me this situation.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Ammar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa is as follows: if a Muslim living in non Muslim countries needs a residence because of the size of family, social and financial reasons etc., and there were no Islamic institutions that offer financing in accordance with Shari'ah and she/he could not find any other way to get it financed as through an Islamically permitted contract with a conventional bank, she/he can take a conventional (Riba-based) mortgage as a last resort because Allah wants difficulties and hardships always removed.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying an apartment in Belgium

From: Islam on line

Date: August 14, 2002

Name of Questioner Hakim

Gender

Age

Education

Date Submitted 7/19/2002

Email

country of Origin

User Ref. No. 3ARPQZ

country of Residence

Question

Salam We are a Muslim family living in Brussels, Belgium. We work and live in this country since few years. We plan to spend the rest of our lives in this country. Currently we rent an apartment. We would like to buy a house in Belgium by paying it through installments. We would like to know whether it is licit in Islam to buy a house through this type of transaction, which requires paying interest on the price of the house. Moreover we do not own a house in any other country. Looking forward to your wise answer. Thank you Salam

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Hakim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Here is my answer to a similar question from North America, I think it help answering your own question:

The Fatwa that is adopted in the resolution of the Second International Fiqh conference in North America held in Detroit in the Fall of 1999 and chaired by his eminence Shaikh Yusuf Al-Qaradawi can be summarized in the following:

Muslims in North America are required by the Islamic Shari'ah to establish financial institutions that provide them with needed financing for their business in accordance with Shari'ah. This is a Fardh Kifayyah on all Muslims in North America (a collective obligation that makes all capable remembers sinful unless and until some of them fulfill it).

Until such institutions are established, Muslims may seek financing from conventional financing institutions that accept to make a contractual relationship on bases acceptable in Shari'ah such as lease purchase or Murabahah. Until that is done Muslims who need to purchase housing for their own residence may resort to interest based mortgage financing as long as such housing is needed taken into consideration the factors of equity and family security, neighborhood safety and decency, the tax deduction/rental factor, availability of rent especially if the family is large, school quality and etc. families/Persons who need housing for any combination of these factors and for them whatever Islamic financing that exists is either not available or expensive and non competitive (either because of the required 20% down payment or any other reason) may still resort to conventional mortgage.

Br. Hakim,

Are the same factors applicable in Brussels, as they are in the USA? that you should know and tell me. Also, the weight and importance of each of the above mentioned consideration is something that can be determined by the concerned persons only, no Mufti can determine for you what is needed... but we must always remember that God is most watchful and most knowledgeable.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in UK

From: Islam on line

Date: August 17, 2002 6:41 AM

Name of Questioner Mohammad Gender Male Age 21-30

Education Date Submitted 7/26/2002 Email

country of Origin United Kingdom User Ref. No. GHBCP4 country of Res. UK

Question

Assalamu Alaikum. My family has a mortgage on our house as we have no other means of purchasing it in the UK. We pay interest to the bank on this loan. I had an idea to put my money in a savings account; and then to use the interest gained on the savings to pay towards the interest charged on the mortgage. The end result would still mean we pay

more interest to the bank than we receive from them, but it would ease the burden. Would it be permissible to this? Jazakallah.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Mohammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

No, this is not permissible. Interest accrued to your saving account in a conventional bank is not yours because interest is forbidden in Shari'ah and the interest clause, in the saving account contract that generates it, is invalid. This interest you have to give away to Muslim charity because you must not return it to the bank (that amounts to helping it do more interest contracts). The interest your family contracted is a legal obligation on them they have to fulfill, if they made the housing contract out of need to do it it may not be sinfull, God Willing.

The easier solution, and you save more on interest, is to use your money and earning to pay parts of the principal on the house of your parents, even if it were a loan to your parent, that they will pay it back to you after they finish payment on the house. This way you would be helping them reduce the amount of interest they will end up paying and reduce the time frame too.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage in the USA

From: Islam on line

Date: August 21, 2002

Name of Questioner Nedal

Gender Male

Age 31-45

Education Graduate

Date Submitted 8/8/2002

Email

country of Origin Jordan

User Ref. No. GI32RT

country of Res. USA

Question

Assalamu Alaikum, My question is about buying house by mortgage. I want to explain how these financial transactions happen in the US. The bank buys the house from the seller, then I make fixed payments every month to the bank based on contract between me and the bank after they buy the house from the seller. So I know how much I am paying for the house by the end of the mortgage period. And I gain ownership gradually with every payment I make. If the loan is made this way, wouldn't be Taqseet (installments) or Bay' Ajal (deferred payments)? It is true that the payment is based on an interest rate that is why it is considered Riba by many scholars. If you rule this unlawful, what should I do, do I have to sell the house? I know there were Fatwas about Muslims

living in non Muslim countries and they're in need for housing, I asked about these when I bought the house, but now I feel that I need to get more decisive opinion about that. I just want to note also that in my area rent is high, that it cost less to buy than rent? Would this constitute a need? Jazakum Allah Khairan and please help me to find the best way to please Allah and stay away from Haram in this matter.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Nedal

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Thank you for the explanation of how mortgage is done in the USA. But are you sure this is the way? If this is exactly the way the sale contract you make between you and the bank is an installment sale contract. Installment sale contracts are permissible even at a higher price than cash price and even if the difference is calculated on a rate exactly equal to the prevailing interest rate.

To the best of my knowledge, mortgage in the USA is done as follows: you search for a house and make an offer, then you apply for a loan and make an initial borrowing contract with the bank. Then at the closing the bank pays to the owner and his creditors the amount of the loan you contracted, on your behalf, and you pay your share, the down payment and you sign the final borrowing agreement with the bank and the bank places a lien (mortgage) on the property and hand you a list of the installments you pay throughout the period of the loan, each installment consists of partial principal payment and interest due for the month on the whole amount. Your indebtedness declines as you pay principal, with it the monthly amount of interest declines too and the monthly payment of principal increases. The transaction consists of a cash sale contract between you and the seller and a loan contract between you and the bank. **THIS IS CLEAR RIBA AS PROHIBITED IN THE QUR'AN.** Please notice how the wrong description of the transaction may cause a misleading Fatwa!

No one can clear your conscious for you except you. You know the Fatwa on mortgage for Muslims in America. It is based on needs that are treated like necessities because they affect too many peoples. The needs are many folds, they include equity and family future security, rent/tax deduction and financial consideration, quality of neighborhood and schooling This, leanliness from crime and other safety consideration, etc... The Shari'ah analysis is clear and correct. It is you who can apply it to your own needs and people differ in evaluating these different considerations and in the degree of their tolerance of adversities and hardship. The principle is removing hardship because this religion is based on sensibility to hardship keeping in mind that such a matter is between you and God Who knows every thing and Who is Watchful on everything.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in Canada

From: Islam on line

Date: September 30, 2002

Name of Questioner Nasreddin Gender Male Age 31-45

Education Post Graduate Date Submitted 9/4/2002 Email

country of Origin Palestine User Ref. No. KMD3HL country of Res. Canada

Question

Assalamu Alaykum I have read the Fatwa by the European council (headed by Shaikh Qaradawi) about buying a house by mortgage. But I am not really sure if I can take it in my case or not: 1- I am now living in Toronto Canada in a rental house, and I pay high rental which consumes large portion of my income. And I am thinking of buying a house by mortgage. But its a matter of comfort or convenience, I cant claim it is extreme "Darura". (Its because mortgage is less that the rental cost, and it will help me save some money and I will end up with owning a house, better that keep paying for rental that puts pressure on my life. 2- I don't have the total price available in cash; but I have some other properties in my home country which I don't want to sell. 3- There is a few Islamic financing associations in the area but they have a long waiting list that needs long time and of more important, they have a maximum limit for there share, which when added to the amount, will not be enough to buy the house. So I can't make it with Islamic institutions. My Questions are: 1- Do you think I am eligible to use mortgage according to this Fatwa. 2- Is this is a kind of Fatwa that we call "Rokhsa" that if we take it is no sin and if leave it we will be from "Ahl Azeema". 2- Also; how can we justify the word "Darura" or "Haja" mentioned in the Fatwa. Jazakom Allah Khair Nasreddin

Notes: I would appreciate a prompt response, Jazakom Allah Khair

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Nasreddin

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Necessity is a thing that when it lacks it causes harm to any of the basic thing Shari'ah aims to protect and promote: life, religion, mind, posterity and property. Lack of need create hardship and difficulty.

Please notice that one of the objectives of Shari'ah is to protect and promote property. it is not a shame to do so!

The Fatwa is based on needs that affect a large number of people, Muslims in the West or in non Muslim countries. They all have similar needs for housing and similar difficulties of finding other means for Islamic financing.

the Issue of Rukhsa and Azimah is irrelevant here because the prohibition is known and the argument for exceptions is clear and within the limits of Shari'ah, you may accept it or not, it is up to you.

One last thing which is probably what you want and what you are not going to get. You are the only person who can determine your own needs and necessities. but remember four things: 1) no Mufti can know your needs better than you, 2) God is Most Knowing and He cannot be cheated, 3) promoting one's economic welfare is a virtue, it is not a sin or shame, and 4) the Fatwa is not necessity-based.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage

From: Islam on line
Date: October 07, 2002
Name of Questioner Thouraya Gender Age
Education Date Submitted 9/25/2002 Email
country of Origin User Ref. No. 1FMS5X country of Residence

Question

I live with my husband in us we live in rent apartment we are planning to buy a house we have 20% Cash money for the price of this house. Now we pay about 800\$ monthly as rent if we buy this house we will pay about 1000\$ monthly about 700\$ as interest and 300\$ as part of the price of the house my question: Is there any fatwa about that, I heard there is fatwa about that I need to know this fatwa and all conditionals

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Thouraya

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

There is a Fatwa as follows:

Muslim families in North America, if they need houses for their residence in consideration of difficulties in finding suitable rental residences, equity and tax and saving matters, neighborhood decency, public services and security, children schooling, etc, have to do the following:

First, they have to establish institutions that provide financing in accordance with the Shari'ah,

Second, if that is difficult or there are no such institutions, they have to make concerted efforts to have financing contracts that are compatible with the Shari'ah with conventional institutions and banks,

Third, they can resort to conventional mortgage if the first two options turn out to be futile.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying an apartment in Belgium

From: Islam on line
Date: December 02, 2002
Name of Questioner Rajae Gender Female Age 21-30
Education Diploma Date Submitted 11/26/2002 Email
country of Origin Belgium User Ref. No. 2A4Y8U country of Res. Belgium

Question

Assalamu Alaikum, I'm 22 years old and I'm married. We are living in Belgium and it is very difficult to keep your religion but we try to make the best. I and my husband like to buy our own house. So we can educate our children at the Islam way like separate rooms. For this moment we work both. But here in Belgium we don't have any way to rent money without Riba. We are compulsory to rent money from a bank with Riba. And we can't afford us that we well rent all us live in a little apartment. Can you ask that question if it's possible to Shaikh Qaradawi or that some one else will respond to me with a lot of security and believes. I hope that you will answer me because you are my last hope whether Islam gives us the permission to rent money to buy a simple house without luxury. Because the life now it isn't the life before. I hope that you will answer me as soon as possible? InShaAllah.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Rajae

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Buying residence by Muslims who live in non Muslim countries is governed by the same Shari'ah rules that must always be taken all together.

There is no doubt that Riba is forbidden, and the banking interest is the same Riba as prohibited in the Qur'an and the Sunnah.

Besides, we also know that the rule of necessities relax any prohibition, but its application must always be based on existence of necessities as defined in the Islamic Law. The general objectives of Shari'ah, as sent by God, Subhanahu wa Ta'ala, are to protect and promote five things that are essential to every and all human beings. These five things are: life, religion, mind, posterity and property. If any of these is exposed to a major harm and a prohibition stands in the way of avoiding or removing this harm such a prohibition must be relaxed. By the same token, matters that make the performance and/or promotion of any of these five basic things difficult and/or expose them to a harm that is not major do not call for relaxation of a prohibition because a little harm can be

born and some difficulty can be carried out. bearing difficulties is part of life itself and performing all religious obligations and satisfying all human needs require certain effort and cost.

But there is another point that must also be considered. That is when hardship, difficulties and harms affect too many persons, though they are still bearable. Hardship, difficulties and harm must also be removed or avoided because the Shari'ah was not sent down to make people, en mass, suffer. Sufferance itself is not an objective; rather, removal of sufferance is an objective.

So we have on hand the rule of necessity and the rule of hardship (less than necessity) that is inflicted on a large number, or a class of people. Both rules call for relaxation of prohibition.

I am very sorry for this abstract introduction that I feel is necessary to explain the Shari'ah position on this issue.

There is no doubt that having a shelter is a necessity, but buying it, in contrast with renting, is another matter; it is not a necessity. On the other hand the hardship you mentioned actually affects every Muslim family that lives in the Western countries. This makes the treatment of such hardship take the same route as the treatment of necessities. On these grounds the Fatwa came, after studying this issue, in the Second International Fiqh Conference of North America, held in Detroit, Fall 1999.

This Fatwa is summarized as follows:

- 1) Muslims in the Western Hemisphere must make serious collective effort to create Islamic financial institutions that provide them with necessary finance in accordance with the rules of Shari'ah;
- 2) Until that is done, they must, individually and collectively try to get contracts that are compatible with Shari'ah from conventional institutions;
- 3) Under situations where both alternatives are not available, Muslims, who need to buy housing, for a variety of needs that include neighborhood, security, safety, ownership and building equity, raising children and education, etc., may resort to conventional mortgage from conventional banks that work on the basis of interest.

You should study your own circumstances and see if this Fatwa applies to your case. If your need to buy a house is real, though not life threatening, you can go ahead and apply this Fatwa.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in France

From: Islam on line
Date: December 25, 2002
Name of Questioner BUE
Education Post Graduate
country of Origin France

Gender Male
Date Submitted 11/23/2002
User Ref. No. ED1D7P
Age 21-30
Email
country of Res. France

Question

Is it possible for me and my wife to borrow money from bank with interest to buy a house or a flat for living, not for investment (because of the high level of rents)?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. BUE

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You know that interest is forbidden in the Shari'ah. it is forbidden for all purposes and under all circumstances. It is in fact one of the worst sins a Muslim may ever commit coupled with a wrath from God and His Messenger, pbuh.

Yet, the Qur'an itself deals with cases of necessities and hardships as good reasons to relax any prohibition, especially when the hardship affect a large group of people, Muslim minority community who live within an interest-ridden economy. We must remember that The Shari'ah has no intention to keep such Muslims poor and deprived from owning their own residences. Accordingly the by-now- famous Fatwa came about after careful study of the situation of Muslims who live within a non Muslim majority. These Muslims need to own residences for a multiplicity of reasons, all of them are important from the Shari'ah point of view: to find decent area for living and raising children, to find adequate facilities such as good schooling, security services and good public utilities, to become owner instead of continuing to pay rent, to build personal equity in their residences, to reduce income taxes, etc.

Considering these elements, the Fatwa first call on such Muslim community to establish financial institutions that provide financing compatible with the Shari'ah, to seek Shari'ah-acceptable contracts from conventional financial institutions and lastly to take conventional mortgages until the other two options are made available.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying on mortgage or renting in UK

From: Islam on line

Date: January 15, 2003

Name of Questioner Hasib

Gender Male

Age 21-30

Education

Date Submitted 12/3/2002

Email

country of Origin U K

User Ref. No. UJE259

country of Res. U K

Question

What is the Islamic view on the western mortgage. I only ask because this is such a contradictory subject as a portion of the people will say Halal & another will say Haram. Please note that bearing in mind the price of renting property can, depending on your location in the world, often be higher than paying off a mortgage, not to mention the family that needs to be supported also. Is it therefore Halal in certain circumstances & Haram in others?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Hasib

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The word mortgage means a lien. it can be practiced with any transaction. it is an innocent word!

housing mortgage as practiced by conventional banks and financiers in the Western countries today is a transaction consisting of buying a house and getting an interest-based loan to finance the payment to the seller with a lien placed on the property and equal installment payments for a number of month. each installment has two components interest on the balance of the loan and partial payment of its principal.

You notice that it is based on interest. Interest on any and all kinds of loans is Riba. Riba is clearly and indisputably prohibited in the Qur'an and the Sunnah. Would any Muslim Scholar dare claiming it is Halal? up till this point nothing is controversial at all.

Any thing that is prohibited is exposed to circumstances of necessities that relax a prohibition up to the size of the necessity. This rule applies to all and every prohibition with only one exception that is murder. There can't be any circumstances that necessitates a person to murder another person, even force and compulsion because there no life that is more precious than another life in Shari'ah consideration. All other prohibitions are subject to the rule of necessity. This is not controversial too. It is based on clear-cut texts in the Qur'an and the Sunnah.

What is necessity? studies (from the time of Shafi'i to Ghazali to Ibn 'Abd al Salam to Shatibi to recently Ibn 'Ashur and many others) based on surveying all the Shari'ah rulings indicate that there are five major thins Shari'ah was sent down to preserve and promote, Scholars call them "the five fundamentals" they are: life, religion, mind posterity and property. there is no preferential order between them because it always depends on circumstances and strength of required action (or abstention). For instance shaking hands between non close relatives makes and females is prohibited but hurting the feelings of another Muslim is more prohibited, then you shake hand with a person from the other gender who extends hand for shaking to avoid hurting the feelings; and drinking liquor out of extreme and harmful thirst coupled with lack with other permissible liquids becomes permissible while drinking the same to avoid hurting the feeling of the other person is not.

Additionally there are differences between personal necessities and necessities that touch a group of people. For instance, one can live in an apartment in a big city today without drinking water reaching home in pipes; inconvenient as it is, this person can go out and fetch for drinking water every time one needs it; but it is a great difficulty to the extent

that it is really a necessity for a whole neighborhood to live without drinking water reaching homes in pipes! Consequently we have the sub rule of necessities that states: what is mere inconvenience for one person may be treated as a necessity if it touches a whole class of persons. Still no differences on this point too!

Who estimates necessities and group conveniences? Here where the differences arise! a very respected group of Scholars at different setting, writings and collective discussion of the issue concluded that the prohibition of buying homes on conventional mortgage when other alternatives are not available or more costly is relaxed because of such inconveniences that take the level of necessities because they touch all Muslim communities who live in the West.

Yet, there are also other scholars who disagree, and they have the right to their own opinion. I stand with the first group!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying on mortgage in Canada

From: Sister Nuzhat

Date: January 20, 2003

Question

I hope you remember me. We met during ISNA Conference. I was also the coordinator of one of the programs during the conference. Well, after all I am your sister in Islam and I have a question which is a great concern of many Muslims in our Community.

Q. Are we allowed to take Mortgage for buying our first house here in Canada. I am trying through Islamic Housing society, Canada to get loan free of interest. They provide loan up to C\$140,000 only the rest we have to come up our selves. We have to keep that rest of the amount for six months in their account. Even after six months if our turn to get loan doesn't come, then we have to wait until the turn comes and our money will remain with them. Till we pay off the loan money our property will be in their possession and they will charge us rent to may monthly to them. The rent is their income. When we buy shares from them they pay us provident which we pay them back to reduce the capital loan. At the time when we pay off all the loan and take occupancy of the house we have to buy one G class share which is 10% of the difference in value of the property from present value minus the time when loan was taken.(the difference could be 200-300, 000) In this way they are charging more than the banks, they are taking rent which the bank calls interest where as the interest of the bank is much low. Bank gives us any amount we need to purchase the house. to buy from theses people we have to collect the remaining balance for example C\$400, 000 is the price of the property. They pay 140,000. Therefore we have to collect C\$260,000 our self and till we collect this amount and wait for six months we have to live in a rented house.

We have been living in Canada since more than 5 years in a rented house and paying C\$1130 + electricity per month as we are a big family of six family members. You can imagine how much we have paid to our Land lord in five years and six months.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Yes, I do remember you very well and thank you for writing.

This issue is as you noticed a very serious one and very often only those who live it repeatedly can understand it. I can say almost every body who lives in the Muslim countries or come from there is extremely aloof from it.

On the one hand Riba is no doubt forbidden; it is one of the worst sins a Muslim may ever commit, One of the few "Sin Major" as the words of the Prophet, pbuh, can be translated.

On the other hand, Muslims who live in the West do not have to submit to such a level of sufferance as you described and I know of many more sever cases. What is the solution?

You may find certain 'half' scholars or less who would argue: no solution Riba is forbidden, go back where you came from and live with family and neighbors! But there are scholars who argue that there must always be a solution to all Muslims wherever they may live and under all circumstances. There is no doubt that any solution shall be a second best to which we do not resort unless all possibilities of the first best are exhausted. The rule is known in Shari'ah and is clear in the text of the Qur'an and the Sunnah, that is the rule of necessity. In principle, the rule of necessity states that if adherence to a prohibition under certain circumstances cause damage or harm to any of the five thing (called fundamentals: life, religion, mind, posterity and property) for whose protection and promotion the Shari'ah was sent down, the prohibition must be relaxed in as much as needed to remove the damage or to avoid such a damage or harm.

Further, this rules has a sub-rule that: a need that covers too many people or a class of people (such as painters who cannot clean their hands completely when ever they make Wudu'), must then be treated the same way as if it were a necessity. Muslims who live in the Western countries are not destined to suffer nor are they required to give up building equity and wealth, reducing taxes, if it applies (I understand you don't have it in Canada), living in a good, decent and safe neighborhood, have good schooling for their children, have the dignity of being a homeowner, not move around from an apartment to another because the complex does not accept children, etc. All these are important considerations that the Shari'ah does not call on us to neglect. These and the similar are the factors behind the Fatwa that came in a resolution of the Second International Fiqh Conference in North America held in Detroit in the Fall 1999, and chaired by Shaikh al Qaradawi. It was also the opinion of the late Shaikh Mustafa al Zarka (died 1999): Muslims can buy their own residences on the basis of Riba-based mortgage if there are no Islamic institutions that can provide financing, under similar conditions and prices, or at least Shari'ah approved contracts with conventional financial institutions. Obviously implicit in the Fatwa that they buy houses as much as removes the inconvenience.

Applying this rule, many scholars believe that

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage in the USA

From: Islam on line
Date: February 03, 2003
Name of Questioner Eihab Gender Male Age 15-20
Education Graduate Date Submitted 1/30/2003 Email
country of Origin United States User Ref. No. ESWYIV country of Res. Sudan

Question

Assalamu Alaikum I just wanted to know weather it's forbidden or legal to buy a house through a loan from the bank, keeping in mind that we can not afford buying a house in cash, and in case of buying it, we will have to pay interest to the bank. And also could it be used as a business in the future (renting the house to some other people as a source of income to my family). Thank you and my Allah reward you all.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Eihab

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa that is adopted in the resolution of the Second International Fiqh conference in North America held in Detroit in the Fall of 1999 and chaired by his eminence Shaikh Yusuf Al-Qaradawi can be summarized in the following:

Muslims in North America are required by the Islamic Shari'ah to establish financial institutions that provide them with needed financing for their business in accordance with Shari'ah. This is a Fardh Kifayyah on all Muslims in North America (a collective obligation that makes all capable remembers sinful unless and until some of them fulfill it).

Until such institutions are established, Muslims may seek financing from conventional financing institutions that accept to make a contractual relationship on bases acceptable in Shari'ah such as lease purchase or Murabahah. Until that is done Muslims who need to purchase houses for their own residence may resort to interest based mortgage financing as long as such housing is needed taken into consideration the factors of equity and family security, neighborhood safety and decency, the tax deduction/rental factor, availability of rent especially if the family is large, school quality and etc. families/Persons who need houses for any combination of these factors and for them whatever Islamic financing that exists is either not available or expensive and non-

competitive (either because of the required 20% down payment, the rate they charge or any other reason) may still resort to conventional mortgage.

Obviously each person/family has its own evaluation of the different factors that may permit resorting to conventional mortgage. It is a matter that rests between a person and God, He knows best whether this need is real or not; and no human has the right to question the sincerity or the heart of others and point to them " ha ha they got conventional mortgage!"

For your second question, whence a house is bought, a change of plan that may happen later does not affect the permissibility. Also buying a residence and getting part of it assigned for supportive income to pay for the mortgage is no difference in my opinion.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in Canada

From: Islam on line

Date: February 24, 2003

Name of Questioner Saleem

Gender Male

Age 31-45

Education Post Graduate

Date Submitted 2/5/2003

Email

country of Origin Pakistan

User Ref. No. ENCGZM

country of Res. Canada

Question

We bought a house here in Calgary, Canada and being a Muslim and to avoid interest problem we got financing from Islamic CO-OP, out in Toronto. But in the first year we find out that Islamic CO-OP is just using Islam, trying to cheat all the times, lying, no service, very unprofessional, charging more than twice then other financial institutions and treating the peoples in very bad manner and also we got few threats from them guys and we end up buying our house from CO-OP through a bank and now we have mortgage from bank. I end up loosing about 20,000\$can, which I paid them as a rent in one year and plus lots of troubles with Islamic CO-OP. Now I am paying about half of the amount that I was paying to Islamic CO-OP and peace of mind. So my question, is it right or wrong to have mortgage from bank having a very bad experience with Islamic CO-OP.
Thanks

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Saleem

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

It is very unfortunate that you had bad experience with the Islamic Housing Co-operative

of Canada, I know many Canadian Muslims who have excellent and rewarding experiences with it!

However, If the available Islamic house financing institution charges more than the market rates or has conditions that are difficult to match a Muslim family in North America who needs housing through financing is permitted to resort to conventional mortgage through conventional institutions, because higher cost or difficult conditions makes the Islamic institution as if non-existing.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in the USA

From: Islam on line

Date: March 07, 2003

Name of Questioner RuQayyah Gender Female Age 15-20

Education Graduate Date Submitted 2/27/2003 Email

country of Origin United States User Ref. No. TXREPM country of Res. U S

Question

As Salaam Alaikum: Is there any difference in interest (Riba) from the bank and buying a home or car?

Notes: Because I live with my Mother and younger brother and we pay 600 dollars a month for a 1 bedroom apartment. And there are homes around our city for 520 dollars a month including interest for 4 bedrooms house. Is that Haram to pay interest for a home? And about the car I am a student and I have to ride public transportation because if I pay payment on a car which is \$320 for a month including interest I was told it would be Riba and that's Haram. Can you help me understand better about Riba. Jazakallah Khairan Sorry for the long Notes. Best Regards

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. RuQayyah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Interest practiced by banks and other persons is Riba. Riba is prohibited in the Qur'an and the Sunnah with most strong statements that include announcing a war from God and His Messenger on those who do not quit Riba (Verse 2: 279) and placing the wrath of God on the parties of a Riba contract, its writer and its two witnesses (an authentic Saying of the Prophet Muhammad, pbuh, reported by Muslim. This prohibition certainly applies to all Muslims, in all countries, and for all their transactions regardless of the objective of the loan or the religion of the other party to the contract.

Riba is defined in Shari'ah as any stipulated increment in a loan, even if its amount or rate is not determined at the time of the contract.

However, our religion is woven on making things easier and simpler and on removing and preventing hardships. Consequently, there are exceptions to any prohibition. these exceptions are based on the rule of necessity and removing hardship which is mentioned twelve times in the Qur'an (e.g., 5: 6 and 22: 78) and nay times in the Sayings of the prophet, pbuh.

In the Second International Fiqh Conference held in Detroit in the Fall of 1999, the issue of house financing was discussed. and here is a summary of its resolution: for considerations of savings, building home equity, tax reduction, neighborhood decency and safety, availability of quality schooling for children and other similar considerations and if there are no Islamic financial institutions that provide house financing in accordance with Shari'ah nor Shari'ah compatible contracts with conventional institutions, Muslims who need housing may resort to conventional interest-based mortgages to finance buying their residences.

This exception does not apply to financing cars for more than one reason, there are alternative transportation, as you do, there are not pressing needs to finance a car by either live without it or buy a used car at a small price, and there are other options to obtain a car like leasing which is permissible and one of the basic Islamically acceptable alternative of interest-based financing (Islamic financing is not just giving loans without charge, because no body is going to give her/his money like that. It is using alternative contracts that are not interest-based such as leasing, equity participation and deferred-payment sale at a higher price.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

IV. BUYING NECESSARY PROPERTY ON INTEREST

SUBJECT: Buying a Muslim Youth Center on interest

From: dialogue@islam-online.net

Date: 3/26/2001

Name of Questioner Abu

Gender Male

Age 46-60

Education High School and Below

Date Submitted 3/19/2001

Email

country of Origin Canada

User Ref. No. BWR88G

country of Res. Canada

Question:

We have bought a Muslim Youth Centre because our youth are getting involved in Gangs, alcohol, murder, selling drugs and many other major un-Islamic practices. Many of our Muslims who are in prison are there for murder, rape, theft etc. Recently, a 14 year old Muslim boy committed suicide. Another 19 year old was shot twice in the head by the gang he was involved with and recently one of them was found dead in his car. This is only the tip of the iceberg. So there are tremendous problems in our community with youths. Some of us have taken the step to purchase a place, a YOUTH CENTER, a safe haven facility, where these youths can come to and do things that will keep them away from all these Haram activities. We have paid about \$50,000.00 and still owe \$200,000.00 on this property which is due to be repaid by June 2001 to the original non-Muslim owner. We have made every possible effort to raise this money to repay the owner. We have sent application letters to Islamic banks, we have approached many Muslim organizations to assist us, we have approached many businesses to help us, we have approached individuals; we have even sent someone to Dubai. All these efforts were made to acquire this \$200,000.00. Our last resort is to go to the local financial institution to acquire this money. If we do not come up with this money by June 1st, 2001, we will lose the property and Allah forbid, also lose another generation of Muslims youths. There is a brother who has connections with a local bank and is willing to take us to obtain an open interest bearing mortgage from the bank which can be paid off as quickly as possible as we do fundraising dinners to raise the money. In this critical and desperate situation would this allow us to go to this financial institution??

My Answer:

Dear Br. Abu

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The tragedy you described of some of our youth is heart breaking, it is the same picture everywhere in North American, we all are sitting on a volcano and we pretend things are all right.

I have no doubt that a youth center with an effective program may be more important than even a mosque. It certainly has priority over schools because many Muslims cannot afford school tuitions. a well managed youth center in North America is the kind of necessity that makes it permissible to go for Riba-based mortgage if you find no other solutions.

Allah, Ta'ala, says "And he who fears Allah, He makes away out for him" I don't think you have exhausted other possible solutions. Try more rigorous local fund raising and borrowing from the community members, try the Housing Cooperative in Toronto and try NAIT in Chicago. May Allah be with you.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a property on mortgage to save one's business

From: Islam on line
Date: August 17, 2002
Name of Questioner Muzaffar Gender Male Age 31-45
Education Graduate Date Submitted 7/23/2002 Email
country of Origin Pakistan User Ref. No. IC8Z6C country of Res. USA

Question

Assalamu Alaikum WW, I have a question about mortgage. A friend of my mine owned a restaurant business and he is paying \$1300 rent. Now the owner of the property wants to sell the property and my friend is afraid that who ever is going to buy the property will increase the rent. So he has decided to buy the property himself. The problem is that the only option he has to get the loan is thru a mortgage company. And if he buys the property he will end paying between \$800 and \$1000. He read it somewhere that a Muslim should not be losing money like this. Now my question to you is it permissible to buy the property (paying interest) in this situation because he will end up paying less than the rent? Jazakum-Allah-e Kahir.

Notes: I know you guys have lots of questions to answer, I would greatly appreciate it if you can answer this sooner.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Muzaffar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You know interest is forbidden and it provokes a war declared from God and His Messenger on those who continue dealing with it.

Necessities that may relax this prohibition include the protection of one's wealth and propeerties (notice that protection is different from promotion). If your friend believes that buying the property saves his restaurant business, and he has no means to get Islamic financing or to make a lease/purchase contract with the owner or a leasing company, this purchase on conventional mortgage may be InShaAllah permissible.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

V. **EXAMPLES OF LACK OF JUSTIFYING NEEDS**

SUBJECT: Buying a house in America

From: scitech@islam-online.net

Date: 10/25/2000

Your question:

I want to know what the point of view of Islamic Shari'ah about buying a house in USA with mortgage. If it is Halal please let me know what the reasons? God bless you all.

Dear Br. Elidrissi,

Assalamu Alaikum,

If you are from Elidrissi of Morocco, you must be a descendant of the Prophet Muhammad, PBUH.

My answer:

Alhamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah.

Buying a house on mortgage in America is a Riba-based transaction, and Riba is forbidden in Shari'ah. This is the answer to your question.

There are cases, well defined in Shari'ah in which a forbidden action may be done without sin, e.g., under necessities. Similar to necessities are avoidance of hardship for a large number of Muslims under similar circumstance. This is in application of the rule "a Hajah when it involves too many people, is treated as a necessity. Under such conditions an action that is otherwise prohibited may be done without sin InShaAllah.

Wa Allahu A'lam,

sincerely,

Monzer Kahf

SUBJECT: buying an apartment in the USA

From: dialogue@islam-online.net

Date: 3/13/2001

Name of Questioner Sarah Gender Female

Age 15-20

Education Graduate Date Submitted 1/31/2001

Email

country of Origin Egypt User Ref. No. 88DW35

country of Res. USA

Question:

I live in Virginia, in the United States of America. I recently got married, and I and my husband need a place to live. He is the only one that is working and has to pay for my college. He makes about 40,000 dollars a year. We cannot afford to pay cash for an apartment. If we rent, then we will never save enough money to have the cash to later buy the apartment. Is there any way that we can mortgage the apartment?

My Answer:

Dear Sr. Sarah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

No sister, I have a great doubt that your case make it to the level that you really need to buy a house on Riba-based Mortgage. Look for the institutions that give financing in

accordance with Shari'ah. Riba is the worst of prohibited thing and it calls for a war from Allah and His Messenger to the persons who indulge in Riba. The Fatwa of the First Fiqh conference in North America, Sept 1999, was that if some family having large number of children is in need for housing, and they find no other sources for financing they may go for Riba-based mortgage, with those kind of needs. You are not in that category, are you? Renting is not really that bad, it may be advisable sometime, especially if it is difficult for you to take charge of maintenance.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying a house on interest

From: dialogue@islam-online.net

Date: 3/8/2001

Name of Questioner Ahmed

Gender Male

Age 31-45

Education Diploma

Date Submitted 2/13/2001

Email

country of Origin Somalia

User Ref. No. NTJY6B

country of Res. Canada

Question:

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh, What the Shari'ah says about taking mortgage on a fix interest and fix term and try to pay-off the loan within that time frame? May Allah reward you for helping Muslims. Ahmed

My Answer:

Dear Br. Ahmed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Interest-based mortgage is forbidden because interest is exactly Riba and Riba is forbidden in Shari'ah. Riba is in fact one of the worst sins a Muslim may ever make, it call for a war from Allah and His messenger As the Qur'an mentions (2:279). Certainly there are cases that have great excuses to the extent that makes a prohibited thing allowable such as emergencies to save life, etc. This rule of necessity applies to all prohibited matters including Riba.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a flat in France and renting it

From: dialogue@islam-online.net

Date: 5/1/2001

Name of Questioner youssef Gender Male Age 21-30
education Graduate Date Submitted 4/18/2001 Email
country of Origin France User Ref. No. L2B5AD country of Res. France

Question:

Salam Alaykum, I have bought a one bedroom flat with a bank credit which has got interest. The thing is that I don't live in this flat. I have one person who pays me the rent that allows me to pay the credit. In fifteen years, I would have finished paying the credit InShaAllah and I will have my own flat without having paid a lot of money. Some friends told me that there is nothing Haram with that and others told me I should ask some Shaikh or imam concerning the Riba question. I hope you will be able to give me an answer if this investment is Halal or Haram. I have done this to allow my children or myself when I will be older to have a better salary which is the rent. Salem Alaykum

My Answer:

Dear Br. Youssef

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The fatwa that exists now (That came in the resolutions of the First International Fiqh Conference of North America, held in Oct. 1999 in Detroit USA) is restricted to families who need residence especially with children and problems of schooling, security etc. To my knowledge there is no unrestricted Fatwa in which the purpose of buying a flat, with interest loan, is for increasing one's wealth and future income. Riba is prohibited and bank interest is exactly the same prohibited riba.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: buying and renting part of it

From: dialogue@islam-online.net

Date: 5/11/2001

Name of Questioner Adnan Gender Male Age 31-45
Education Post Graduate Date Submitted 5/3/2001 Email
country of Origin Pakistan User Ref. No. XITCDJ country of Res. UK

Question:

Assalamu Alaikum, If a person rents a room here (UK) he has to pay say 200 pounds per month. On the other hand if he buys a house (on mortgage), and rent a part of it, he will save the money. He can get rent nearly 400 pounds and if his mortgage is 400 pounds as well. Then he himself be living free, thus saving 200 pounds. His intention of buying a house is not really to buy a house but to save money only. Is it allowed to do this? adnan

My Answer:

Dear Br. Adnan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The opinion of the First International Fiqh Conference in North America (Detroit, October 1999) is based on need of family, schools, safety and security, and social environment. It did not give appreciation to the net financial outcome. According to this resolution, net financial outcome alone is not sufficient to bear any relaxation of the prohibition of Riba as it is apparent in this kind of Riba-based mortgage transaction.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a residence in Sidney by a person living in Indonesia

From: dialogue@islam-online.net

Date: 2/6/2002

Name of Questioner Alvin	Gender Male	Age 21-30
Education Graduate	Date Submitted 1/24/2002	Email
country of Origin Australia	User Ref. No. 6CFKD8	country of Res. Indonesia

Question

In the Name of Allah, Most Gracious, Most Merciful. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger. Dear Brother in Islam, I wish to ask a few questions: 1. I want to buy a house in Sydney, but all the banks in Australia are involved with charging interest on the term of the loan. My question is, is it considered Riba in Islam if I buy a house and paying interests for 25 years? 2. What are Islam's views on the stock market? I am interested in investing in financial markets, but wish to find out more from Islam's perspective. I thank you for the answers. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

My Answer:

Dear Br. Alvin

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - The quick answer: yes it is Riba, no doubt about it. Riba is certainly Haram and a very gross sin. The Shari'ah rules call for relaxation of prohibition if there are pressing needs, are therein your personal situation being living in Indonesia. I personally don't know your family size nor circumstances of neighborhoods Sidney and other conditions of rent/buy Houses in Australia?

2 - Also the quick answer is according to reasonably acceptable opinion it is permissible to invest in stocks of companies whose main line of business is permissible and do not have much of activities in forbidden areas such as interest-based transactions. The matter in stocks is that owning a stock makes you a co-owner of the company and whatever the

management does is done on your behalf by virtue of delegation of authority, in other words it is as if you made these transactions. Yet little relaxation is due because of the common hardship especially on small investors a blanket prohibition creates.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT Buying a house to grab an opportunity

From Islam on line

Date: 2/16/2002

Name of Questioner Hassan

Gender Male

Age 31-45

Education Post Graduate

Date Submitted 1/29/2002

Email

country of Origin Sudan

User Ref. No. 5M8CK7

country of Res. U K

Question:

Assalamu Alaikum, I am currently living in the UK and I am planning to go and work in Saudi Arabia in the near future but before I go there I want to buy the house I am living in because if I don't buy it I will loose it and this house has been given to us from the council for ever to live in it as long as I am in the UK and I pay a relatively small rent compared to the market price as long as I am employed and because I might come back to live in the UK in the future InShaAllah I don't want to loose it given the fact that I will get it with a relatively cheaper price than the market price because it is a council property. My question is: am I allowed to take a loan from the bank to buy this house or not? Many thanks. Hassan

My Answer:

Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

You want to buy this house to grab an opportunity do you see a necessity or an overwhelming need in that? If you need the house for your family regardless of having a good opportunity and do not find other means to finance it, you may take an interest-based mortgage.

Act within your limit and borrow without Riba, you don't seem to have a pressing need to indulge in one of the most gross sins Allah' Ta'ala defined in the Qur'an.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: who determines a person's need?

From: Islam on line
Date: March 11, 2002 8:58 PM
Name of Questioner Hassan Gender Male Age 31-45
Education Post Graduate Date Submitted 2/18/2002 Email
country of Origin Sudan User Ref. No. 24416H country of Res. U K

Question

I am referring to my question raised a couple of weeks ago and your answer to it by Mufti Dr. Monzer Kahf with reference 5M8CK7. I first want to thank you very much for the effort you are making to guide us through this darkness. However, I would like to comment on the answer I have been given by the mufti. Firstly, I think he got the perception that I am grabbing an opportunity from the way I put my question because I said I am planning to go and work in Saudi Arabia and I don't want to loose the house. Secondly, he asked me if it is a necessity or an overwhelming need and he further added that I should act within my limit and borrow without Riba. I would like to mention that I haven't got any other house anywhere in the world and I have approached all the Islamic institutions here in the UK, like "Manzil Bank IIBU" and some other countries including Saudi Arabia for a loan or any other Islamic form of mortgage, Murabahah or Ijara but unfortunately I couldn't get any, and I don't think I could get any money anywhere without having to pay some form of interest. So, I would be most obliged if you could review your fatwa under the additional information I have provided and forward me the answer as urgently as possible. Again many thanks and Assalamu Alaikum. Hassan

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Thank you Brother for the explanation. The point is that you are the only one who determines your need, I can't do that for you bit I only give humble general guidelines. Still I don't see any pressing need or any need for a house in Britain while you live in Saudi. A pressing need that may effect relaxation of a forbidden act of the kind of contracting on Riba basis is something like you could not rent because of the number of children, rental areas have bad schooling or high crime rates, substantial financial loss that seriously affects you, etc. Now if you live in Saudi and you are going to be renting there, what is pressing for purchasing a house in Britain? It is not a matter of the opportunity you grab, and it is good to grab opportunities, using Shari'ah permitted contracts. Further, owning a house is not a value in itself, so what if you don't own a house anywhere in the world? you will InShaAllah own a house, without interest from your savings in the new job and you will also own a farm in Sudan and many other things, you don't need to hurry to the extent that you fall in the swamp of Riba. Again, estimation of one's need can only be decided by the person and all other view are only to help make a conscious decision. Ask your own heart inspire of any Fatwa you get from all others.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Taking an interest-based loan to help paying an interest mortgage

From: Islam on line
Date: March 25, 2002 5:00 PM
Name of Questioner Uk Gender Age
Education Date Submitted 3/12/2002 Email
country of Origin User Ref. No. 84Q6ZF country of Residence

Question

Salam, I am a student and I am studying at university. I have taken out a loan from a loans company and I will be charged interest in terms of inflation. I am using this money in order to help pay for my dads mortgage, the interest on the mortgage is quite a lot, am I doing wrong Islamically, please explain and give references, thanks

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. uk
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Taking interest based mortgage is Haram unless out of necessity or substantial needs. The best way to deal with an interest-based mortgage, when it exists, is to either negotiate taking it out or pay it as fast as one can. If you are substituting an interest based loan by another with the intention that the new one is faster to pay because it has lower rate, that must be a good action, rewarded by Gad, God willing. There are no Verses or Ahadith about this point but there is the general rule that if one happens to make a sin try to get out of it as fast as you can.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on interest in Canada

From: Islam on line
Date: March 25, 2002 4:53 PM
Name of Questioner nimr Gender Male Age Above 60
Education Post Graduate Date Submitted 3/13/2002 Email
country of Origin Palestine User Ref. No. VG3A9 country of Res. Canada

Question

borrowing money from bank to complete a down payment to buy a house to live in with my family ,and a house to invest its rent (I DID BOTH ,A HOUSE TO LIVE IN 1994 WHEN I IMMIGRATE TO CANADA .AND THE SECOND HOUSE IN 1999 SO AS TO SPEND ON THE COST OF LIVING AS I did not work since 1991]the only source of spending is what I SAVED before 1991 .I have to pay mortgages, insurance on my houses, my car property taxes ,electricity ,gas for heating and eating etc. etc. etc. I do not drink or smoke

Notes: it is very important to know the various opinions in this matter and in case your fatwa is this Haram. What I have to do in this situation. I MEAN I already borrow twice and I am planning to borrow money to buy another house [InShaAllah] for the same reason and I am looking forward to buy another house [InShaAllah]so each of my four children inherited a house] you know it is easy to borrow money from bank]may ALLAH the ALMIGHTY ,bless you and us Ameen

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. nimr

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you are asking about interest-based mortgage, it is Haram. Shari'ah does not allow interest for housing or for any other purpose. Taking interest and paying it are both Haram and the Prophet, pbuh, put the wrath of God on the person who takes and the one who pays it and the one who writes it too.

Any prohibition is relaxed in case of necessities and strong needs. Needs may sometimes but not all the times apply to the house you reside in, it does not apply to other houses you bought or you want to buy.

You better make Istighfar, and a lot of it, we all need a lot of Istighfar anyway and discontinue dealing in what Allah Ta'ala prohibited.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage to be near Islamic school

From: Islam on line

Date: August 20, 2002

Name of Questioner hala

Gender Female

Age 31-45

Education Post Graduate

Date Submitted 8/8/2002

Email

country of Origin Egypt

User Ref. No. SM5Z68

country of Res. Canada

Question

Assalamu Alaikum I'm new in Canada, living in Mississauga which is full of mosques, Islamic schools and big Muslim community. I have some money so I can buy house without bank mortgage but it will be too far from this Islamic community. Or else I can buy a house here with bank mortgage and raising my children in Islamic schools, having Muslim friends and going to Gomaa (Friday) Salah. What should I choose? gazakom Allah

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. hala

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you have sufficient money to buy a house without interest in an area suitable for your family, then buy it, don't go for interest payment and make some extra driving for schooling. Also try to get a help from the Islamic Housing Cooperative of Canada near you. You may also try to negotiate a purchase with the seller at a large downpayment and smaller amount left for quick installments, most sellers give some financing, you can even incorporate the amount of interest they ask for on the future installment into the price itself.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Renting part of a house purchased on mortgage

From: Islam on line

Date: September 25, 2002

Name of Questioner Nasreddin Gender Male Age 31-45

Education Graduate Date Submitted 9/7/2002 Email

country of Origin Palestine User Ref. No. C49N8R country of Res. Canada

Question

Following to my question about mortgage that I sent 2 days ago which is still awaiting for reply; I would like to add the following: If it is ok for me to buy a house by mortgage, is it also fine if I rent part of it (the basement) which will help cover part of the mortgage.?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Nasreddin

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you buy a house that is suitable to you and within your needs that removes hardship, then you decided to rent a part of it, this is permissible InShaAllah.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a bigger house on mortgage in the UK

From: Islam on line
Date: November 21, 2002
Name of Questioner amer Gender Male Age 31-45
Education Post Graduate Date Submitted 11/11/2002 Email
country of Origin Palestine User Ref. No. VUB57F country of Res. Ireland

Question

living in U K I bought a house (took mortgage from a building society) now I am going to buy another bigger house and sell old house and take a mortgage and close old mortgage as you know banks and building society charge interests, is it still Halal if I borrow the money and buy new bigger house and sell smaller house.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. amer

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Riba (=interest) is certainly prohibited and it is one of the most grave sins in accordance with the standards of Shari'ah. The Fatwa of permissibility of interest-based mortgage as a last resort after exhausting other means of financing is based on the need that applies to a large number of Muslims. This implies that resorting to conventional mortgage is limited by the need of the person and her/his family. If one needs a large house , so let it be but if one does not need it the Fatwa does not apply!

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a housing project with interest in the USA

From: Islam on line
Date: March 08, 2003

Name of Questioner Rajeeyah Gender Female Age 21-30
Education Diploma Date Submitted 3/1/2003 Email
country of Origin United States User Ref. No. Z78VY7 country of Res. US

Question

Assalamu Alaikum wa Rahmatullah wa Barakatuh. I am trying to establish and Islamic community and would like to purchase houses and housing units to provide my Muslim brothers and sisters adequate low cost housing. Purchasing the property will involve Riba. My plan is to buy the property on interest and pay off the loan within 2-3 years time. Is this permissible being that it is to help other Muslims feasible Allah?????

Notes: I am also trying to do the same with in the Business area. Muslim owned Muslim run businesses.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Rajeeyah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Ends do not justify the means. Riba is prohibited and you can't use it as a means to build an Islamic community.

On the other hand if, on individual basis, each Muslim family needs to purchase a residence and has no means to buy one via Islamically acceptable contracts, it may resort to conventional interest-based mortgage. In such a case if a group of families on whom these conditions apply pool their resources together to buy or build a subdivision of their own it becomes permissible on the basis of the exception of necessities.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

VI. FULFILLING INTEREST-BASED HOME FINANCING CONTRACTS

SUBJECT: We live in a house purchased on interest before conversion to Islam?

From: Islam Online

Date: 12/7/00

Question

You pose an interesting question an apartment you bought on mortgage before converting to Islam, now it is rented and it pays for itself and you could not find affordable Islamically acceptable refinancing.

Dear questioner:

As salamu alaikum,

My answer: I like to refer to two points. One the opinion of the First Fiqh Conference in the US and Canada, held in Detroit, Nov 1999. its summary is that for people who live in non-Muslim countries and are in need to buy a residence because of difficulty in finding suitable rentable, convenient schooling, size of family, etc., and cannot afford cash payment, it is permissible to recourse to mortgage if there was no other alternative.

This does not apply to your case because now the apartment is rented, but let us suppose a person bought a residence under this Fiqh opinion and later the circumstances changed and the residence ended up rented. What does this person do? Applying the rules of Shari'ah, you should make all reasonable effort to get rid of this contract as soon as possible without sacrificing your equity in the property and this is exactly what you tried to do. I see one thing that still can be done if you think you are not going to be in need for the apartment to use as a residence once more in the future: to sell the property as soon as possible again without rushing into a sale that makes you loose on its market value. And here where the second point comes . . .

There is a general rule of Shari'ah that whenever action is needed to be done, we are required to do it as much as we can with only bearable cost because we are called on to protect our five major things: life, religion, mind, posterity and property.

And it you think you are going to need it again for residence the temporary rental does not affect you

This means that until you make the right decision on this apartment you need to feel comfortable with your own conscious as long as you are trying to get rid of the Riba as much as you can

Wa Allahu A'lam

Monzer Kahf

SUBJECT: Continue paying interest-based mortgage or walk out of the house?

From: Islam on line

Date: December 17, 2002

Question

ASSALAMU ALAIKUM. I AM A 34 YEAR OLD WITH A 10 YEAR OLD CHILD. AT PRESENT I'M LIVING IN THE HOME THAT I PURCHASED WITH MY EX-HUSBAND. AT THE TIME OF PURCHASE I DID NOT HAVE THE FULL KNOWLEDGE OF THE RIBA AS I HAVE KNOW. DURING THE DIVORCE THE HOUSE WAS AWARDED TO ME AND MY SON AND MY EX-WAS HELD RESPONSIBLE FOR THE SECOND MORTGAGED HE TOOK OUT ON THE HOUSE FOR REPAIRS AND HE CHOOSE TO USE IT FOR HIS OWN PERSONAL USE. WE TOOK OUT THE MORTGAGE FOR 72 THOUSAND DOLLARS FOR THE HOUSE

AND IN TURN MY EX-TOOK OUT ANOTHER LOAN ON TOP OF THAT FOR 25 THOUSAND DOLLARS FOR REPAIR OF THE HOME WHICH NO REPAIRS WERE DONE ON IT. THIS ACTION ALONG WITH OTHER ACTIONS LED TO OUR DIVORCE. THE JUDGE AWARDED ME THE HOUSE TO ME AND MY SON AND THE 25THOUSAND DOLLAR LOAN TO MY EX-HUSBAND. NOW THAT I KNOW BETTER ABOUT THE REBA I WANT TO KNOW WHAT I SHOULD DO AS, MY EX-HUSBAND HAS WENT THROUGH BANKRUPTSY AND THE LOAN HE TOOK OUT ON THE HOUSE IS ADDED TO THE HOUSE AS A LIEN ON IT. THE HOUSE IS NOT WORTH THE PRICE THAT IT HAS ON IT. WHAT DO I DO GO THROUGH BANKRUPTSY OR JUST WALK AWAY FROM IT. OR SHOULD I JUST KEEP PAYING FOR IT AS RIGHT NOW I'M UNEMPLOYED AND HAVE NO WHERE TO GO. PLEASE ADVISE ME AS TO WHAT STEPS I SHOULD TAKE TO RELEIVE ME OF THIS RIBA. AS SALAAM ALIAKUM

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Based on the information you gave in your question, the first thing you do now is to straighten your source of income in a way that allows you to sustain your living, with your son, reasonably. Once you have sufficient income stipend (even if it were from welfare and or Zakah from the Muslim community, you then find a decent place to live in with your son.

Riba is certainly forbidden in Shari'ah and interest on mortgage is Riba. But we must remember that any prohibited matter may be tolerated under necessities. It seems to me that what matters at this stage is the bankruptcy more than the interest. According to Shari'ah, you can file for bankruptcy based on true and honest inability to pay your debts, especially that the added loan on the house is not yours anyway.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

VII. HOUSE PURCHASE FINANCING IN MUSLIM COUNTRIES

SUBJECT: Buying a house on interest mortgage in a Muslim country

From: dialogue@islam-online.net

Date: 3/2/2001

Name of Questioner Muslima Gender Female Age 21-30
Education Graduate Date Submitted 2/19/2001 Email
Country of origin Morocco User Ref. No. UF9L57 Country of res. Morocco

Question:

Assalamu Alaykum. We are very happy to have you by our sides. May Allah reward you for everything. Please I want to know if I have the right to take a loan from A bank (which means with Riba) in order to buy an apartment. I'm married and I have 2 kids. There are no banks in morocco offering a free loan so the alternative is either to rent or to live with parents. This last solution isn't suitable for us. And concerning renting, we see it like money wasting especially that the amount we'd pay each month while renting is higher than the one in the case of buying. I've heard that this loan could be taken if there is a need (darura). Is our case considered as a darura? And could we take the loan? Please advise us and jazakumu Allahu 'anna khayran.

My Answer:

Dear Sr. Muslima

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

I don't see your case as a Darura that renders permissible such a horribly forbidden thing like Riba. Riba instigates a War declared in the Qur'an from Allah and his Messenger. It is a lot worse than almost all other sins. A Muslim family like yours who lives in its own land, among parents, relatives and friends must find a better way than indulging in Riba to purchase a home which itself is necessary. If you fail in utilizing all these resources that you have then it is you to blame. Please Sister, try to be creative and Allah shall certainly help you. Create a cooperative for housing, find several relatives and friends who can lend you small amount each, find a builder who can sell you on installments, even t a price that is higher than paying all cash, find a partner who can buy with you and you her/him rent for their share until you can buy it from them. In a Muslim country you should be able to find a way because there are many people around who have similar needs and they have to work together. Our inability to work together is something we have to change and we can change, allh will help.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on interest in Morocco

From: dialogue@islam-online.net

Date: 3/7/2001

Name of Questioner reem Gender Female Age 21-30
Education Graduate Date Submitted 2/27/2001 Email
Country of Origin Morocco User Ref. No. Y2CQ5Y Country of Res. Morocco

Question:

In the name of GOD the most merciful, the most gracious. Al Salam Alaykum wa Rahmatullah wa Barakatuh. Thank you for giving me a time to read my letter and please if you could answer my following question: In Morocco, the couple can not buy a house in a few years or saving; because the prices are too high .for sure we can not take a loan from the bank because of the interest. But my husband and i are renting a house with about \$500, and we can not save money with this rent price. However, my husband company suggests for him to buy a house from them, actually; they will buy us a house, and they will sell it for us. The problem is that they will sell it to us with 30% percent plus the house price. For example, if the house is costing \$100000, they will buy it with this amount and sell it to us about \$130000, and we will return the amount monthly among 10 years. furthermore, the amount will be divided on 10 years, each month we will pay for them \$400 (the house price) + \$400 (the amortization of the house) Simply is it Halal or Haram thank you very much for reading my message and I'm looking forward to your answer thank you again; Mme Reem

My Answer:

Dear Sr. Reem,

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

I know that the Family name you carry is descendant from the Prophet Muhammad, pbuh. So InShaAllah your commitment to abide by the Shari'ah is also a reflection of this Glorious and Noble origin.

According to the way you described the transaction, it is perfectly Halal. Here are the details:

The Murabahah contract is when some party buys something and tells another: here is my cost (in your figures 100,000) and I like a profit of so much on it (30,000) with given conditions of time schedule of payment. The difference in price between the cash contract and the installment contract is permissible. It is Halal for the company and Halal for you to pay it. The condition in Murabahah is that the second sale contract (to you) must be done after the first is concluded and the house is received by the company.

If the company buys the house for say 100,000 and gets from you 30% over its cost (which is permissible to include not only the price but also any cost of registration of title or broker's fees, etc.) with 10 years installment, it is in fact giving you a privileged rate which is less than 6%, you know bank rates are higher. So you are InShaAllah getting a Halal purchase and a good deal too. By the way your number of 400 being the monthly increment above the 1000, is incorrect, because if you divide the additional 30% over the example of a price of 100,000, the monthly simple installment will be 1250, in other words the addition is 250 (= 30 000/120 months).

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: necessity to buy a house in Egypt

From: dialogue@islam-online.net

Date: 10/18/2001

Question

Salamu Alaykum. How are you doing? Hope you're enjoying Allah's Blessings.

Here is a question about interest and Riba:

1. With respect to "Necessity Requiring Exceptions" and housing, why would it be necessary for someone in Canada to own a house but not in Egypt?
2. I have always been taught that the intent is as important as, if not more than, the action. I do not see how this would be different for Interest or Riba. If you make money off of lending money to someone (without providing any other service with the exception of risk) regardless of the method, is it not Haram? Tamir

My Answer:

Dear Br. Tamir

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1- Necessities don't have boundaries, but they are circumstantial. I can't speak about the situation in Canada regarding necessity of certain Muslim families to buy residence. The matter in the USA for Muslim families is as follows: usually Muslim families are large, with several children and it is very often very difficult to find rental residence that provide reasonable decency, safety, suitable schools, and appropriate general environment; add to it the tax reduction as a result of buying. This is caused in the USA by many historical and economic factors, and this is the kind of necessity that we have at a time that there are no Islamic financial institutions that provide financing compatible with Shari'ah. In Egypt, the normal case to have certain facilities from friends, families, and Islamic financial institutions; besides, renting is available for large families and there is no tax effect.

2- The way you expressed the idea of intention indicates that you may like to review this concept. Intention is certainly a necessary condition for accepting any deed by the Almighty God, but it is not sufficient. The other and completing condition is that any deed or action **MUST ALSO BE IN COMPLETE COMPATIBILITY WITH SHARI'AH**. Hence, intention is not a substitution of implementing Shari'ah. Shari'ah prohibits interest (Riba) as clearly as one can think of, in both the Qur'an and the Sunnah. This prohibition does not include, by any means, eliminating any compensation on financing and does not imply that money will be available for any person to grab. In other words, financing in accordance with Shari'ah must take routes other than lending for increment (which is the definition of interest/Riba). And if you find certain similarity between lending for increment and certain permissible forms of financing, it is because both are modes of financing. This is like the similarity between aspects of the relation between husband and wife and the relation between adulterers. Such similarities do not indicate any bad intention on the part of a person who gets married to satisfy a person's sex drive. As a matter of fact there is an indication of good intention because such a person selects to

give/take financing in accordance with Shari'ah rather than on the basis of interest-bearing lending.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on interest in Pakistan

From: Islam on line
Date: March 07, 2002 9:37 PM
Name of Questioner Omar Gender Male Age 31-45
Education Graduate Date Submitted 2/14/2002 Email
country of Origin Pakistan User Ref. No. L6Y71J country of Res. Pakistan

Question

Currently I am looking for a house to buy. Since it is virtually impossible to have the full price of the house in cash, and mortgages involve interest, what would you recommend I do in order to properly pursue this objective? I am not even sure if this type of interest (mortgage) is acceptable in Islam or not, although my inclination is that it's not. I have also inquired about Islamic Banks, but it is hard to find reliable information about them so far. Thank you much, Assalamu Alaikum, Omar

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Omar
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
To the best of my knowledge, there are several private sector Islamic banks in Pakistan, in fact, I believe all banks follow the Shari'ah principle if the last ruling (1999) of the Pakistan Supreme Court has been implemented. Moreover, the Pakistan house Investment Corporation offers several form of Shari'ah compatible contract for house purchase. Accordingly I find no reason for going to interest-based mortgage. Interest is obviously Haram for housing as well as for any other deals. I find no reasons for necessities in most Muslim countries, especially Pakistan.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on interest in Pakistan

From: Islam on line

Date: March 27, 2002
Name of Questioner khalid Gender Male Age 31-45
Education Graduate Date Submitted 3/4/2002 Email
country of Origin Pakistan User Ref. No. 3BFV2S country of Res. Pakistan

Question

I am interested in buying a house and for this I have to finance it thru a bank. As we all know banks charge interest on the loan they provide and as Muslims we have to stay away from interest. So could you guide me if I am right in my understanding that we have to stay away from any kind of interest? Jazak Allah.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. khalid
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Yes, Dear Brother, you are fully right. Interest is one of the most grave sins in Islam; it is associated with believing in partnership with Gad and it is the only sin on those who do it Allah, Ta'ala, declared a war from Him and His Messenger, The Qur'an Verse 2:279.
To my knowledge, Pakistan has several Islamic banks, private and public. It also has a house financing public company that uses Islamic contracts. Why dealing with interest for housing in Pakistan?

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on mortgage in Morocco

From: Islam on line
Date: April 05, 2002
Name of Questioner azhar Gender Male Age 21-30
Education Post Graduate Date Submitted 4/3/2002 Email
country of Origin Morocco User Ref. No. 7ZC7QN country of Res. Morocco

Question

I live in morocco and there is no Islamic bank. Can I buy a house with interest procedure.
Thank you very much

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. azhar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I believe that Muslims in the Muslim lands that have no Islamic banks should be able to manage the house financing through collective and cooperative means rather than resorting to interest-based financing. The same applies to other financing needs in business and industry.

I don't see away in which Muslims can relax the major prohibitions in the Qur'an and Sunnah because they don't take positive actions in helping themselves and creating the institutions and companies they need, even with lack of legal permission to found Islamic banks. There are still many other forms of organizations, institutions and companies that are permissible. And there are other forms of non-interest contracts that can be made, even with conventional banks.

Make house financing cooperative, borrow from family and friends, make lease financing with a conventional bank, establish a lease financing company for housing, etc. But always remember that interest is one of the worst sins the Qur'an attacks and intends to abolish from the whole Society, A war is declared from Allah and His Messenger on those who deal with interest (al Baqara: 279) and the Prophet, pbuh, says that taking it and giving it are equal in the degree of sin and both earn the wrath (La'nah) of God.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in Jordan

From: Islam on line

Date: February 24, 2003

Name: Hiba

Country of Residence: Jordan

Gender: Female

Reference No.: 5RZ9FM

Email

Age: 21-30

in the name of God Dear sir; Thank you very much for this opportunity, i need to ask if it is Halal to take a loan from a bank to buy a house for the family, knowing that me and my husband work and we live in a rental house, if we don't take a loan we will never be able to buy a house since we pay rent . . If we take a loan we will be paying almost the same amount as rent for the installment. Awaiting your answer. Thanks and Jazakum Allah Kheir

My Answer:

[Bismi Allah al Rahman al Rahim](#)

[Al Hamdu li Allah Rabb al 'Alamin](#)

[wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in](#)

[Dear Sr. Hiba](#)

[Assalamu Alaykum wa Rahmatullahi wa Barakatuh.](#)

If you are in Jordan, there are two Islamic banks you should try to deal with them and find a good way to finance your residence in Jordan. Besides in the Muslim countries

there are families and friends that may help and always help. You know Riba is forbidden and a house loan from a conventional bank is Riba-based.

If you live in non-Muslim countries that have no Islamic banks, the matter is different. That doesn't mean that the prohibition doesn't exist any more. No, the prohibition is as in no differences between countries and places. But because there is a great deal of hardship for Muslim families who live in the West in finding suitable housing without mortgages and there are very few, and only recently, institutions that offer Islamically acceptable contracts, the prohibition is circumstantially relaxed. If you live in the West and your family need the housing for reasons that include, but not limited to: children education, tax considerations, equity building consideration, neighborhood security, safety and services, etc., and you don't find, at competitive cost, Islamic contracts for financing your house, you may then use conventional mortgage.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

VIII. BUYING HOUSES IN NON-MUSLIM COUNTRIES

SUBJECT: Buying a house in Sri Lanka while living in UAE

From: dialogue@islam-online.net

Date: 4/24/2001

Name of Questioner mohamed

Gender Male

Age 31-45

Education Graduate

Date Submitted 4/10/2001

Email

country of Origin Sri Lanka

User Ref. No. XW4K54

country of Res. U A E

Question:

I am referring to the question ref. WDACB5. I am staying in UAE last three and half years with my wife and my son (Five years old). We are expecting second baby in October 1. I am a quantity surveyor and from a village in Sri Lanka. There is no any English medium school and jobs for my profession in my home town. My wife has an own home there. But I do not have any home or land there. I am a diabetic patient also. Age - 32. In Dubai my son is studying in English medium. In future if I had to return to Sri Lanka, I do not have a place to stay except my home town. Considering my job and education of my son, I am planning to buy a house in Colombo. The available finance source is bank only. In this situation please advise me whether I can take a loan or not. Wassalam. Mohamed Ihsanullah

My Answer:

Dear Br. Mohamed Ihsanullah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

This question was answered before as you referred to the answer in your letter.

InShaAllah you will be cured from diabetics and your son, and the coming one will have excellent education, and you must seek that for them, Yet your situation does not seem to me to fall under the Fatwa that came from the First Fiqh conference in North America because of the following:

1- In Sri Lanka there are many Muslims and I am sure you guys can cooperate to help establish a suitable financial institution for house financing; 2- apparently you can sell the property of your home town to buy in Colombo; 3- you don't have an urgent need as you live now in UAE, not in Colombo, probably, you buy now there and you end up renting it because you are not there; 4- your son is too young to have education in a foreign language, why not having his education in your home tongue or in Arabic at the most, the language of his religion and worship, he shall have a lot of time to learn English later; 5- isn't true that rent is available in Colombo, why not renting when you need to leave the UAE and go back home? AS YOU DESCRIBED IT, I DO NOT SEE ANY KIND OF A PRESSING NEED.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a land for a house on Riba in India

From: Islam on line

Date: August 21, 2002 9:10 AM

Name of Questioner maleeka

Gender Female

Age 21-30

Education Graduate

Date Submitted 7/29/2002

Email

country of Origin India

User Ref. No. UE55UM

country of Res. India

Question

Assalamu Alaikum! Is it permissible to take loan from banks / financial institutions/ housing development board/ for purchasing land and constructing a house wherein interest is involved? Thank You.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. maleeka

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Here is my answer to a similar question:

Mortgage, the way it is practiced in America is forbidden in Islamic Shari'ah. Mortgage financing is based on interest and interest is the same as Riba that is forbidden in the Qur'an. Allah (swt) described it in the Qur'an as one of the worse sins that a Muslim may do. Continuing the Riba practice by a Muslims may invoke a declaration of war from

Allah and His messenger (Surah 2, verse 279).

However there is also the rule of necessity that is established in the Qur'an too.

According to this rule, any prohibited matter may become permissible if it is necessary to save life, protect religion, protect mind and posterity (chastity/descendants), or property. If a conventional mortgage is essential to any of these necessities it may be exceptionally permissible according to the rule of necessity.

The Second International Fiqh Conference in North America that was held in Detroit in the Fall of 1999 discussed this issue and considered that there are quasi necessities (which are treated as necessities because many people normally have them). These include good schooling for children, neighborhood safety and decency, public utilities and services in the area, family future financial security and the consideration of building equity, tax deduction and adequacy of income, and etc. The resolution of the conference was as follows:

1- Muslims in North America are required to establish their own financial institutions that can provide financing via contract that are compatible with Islamic law. Those who are capable to establish such institutions are all sinful until some of them at least succeed in doing so.

2-Until such institutions are established sufficiently to cover all of the financing needs of the community, Muslims must seek financing from conventional banks in accordance with contracts compatible with Shari'ah such as lease/purchase and installment sale.

3-Whenever non of the above is possible, those families who need housing, keeping in mind the considerations mentioned above, may resort to conventional mortgage financing under the rule of necessity although it is interest based.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

IX. USING PROPERTY BOUGHT WITH INTEREST FOR PRAYERS AND OTHER USAGES

SUBJECT: Prayers on property bought with interest

From: dialogue@islam-online.net

Date: 3/2/2001

Name of Questioner: Mujeeb

Gender Male

Age 31-45

Education Graduate

Date Submitted 2/20/2001

Email

Question:

In USA lots of Muslim bought there home on Mortgage i.e., they are paying interest every month on their properties. My Question: is it o.k. to pray on the property (house) which is bought on Mortgage? Please let me know. Thanks.

My Answer:

Dear Br. Mujeeb

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Yes, it is permissible to pray in a house or a place purchased on mortgage because there is nothing in Shari'ah that prohibit that, and a prohibition you need an evidence. The Qur'an says "wa la taziru waziratun wizra 'ukhra" that implies that one must not mixed things together. A person who unjustifiably bought on Riba basis has his own sin and that sin does not cover the place or the land because it is obtained in a correct sale contract. Financing a contract is something different that a sale contract. By virtue of a sale contract a house or a real estate becomes owned by the purchaser, and by a Riba-based financing contract a person commits a sin if he/she has no justification accepted in Shari'ah.

Further, who said that every contracts persons make are forbidden outright without knowing their excuses and justifications, and a Muslim must always avoid being accusative of the action of his Muslim brothers and sisters, better search for excuses for them, you don't know their circumstances and you are not the judge on their hearts. Our role is ONLY TO EXPLAIN what is right and what is wrong and we leave it to their conscience to take their own decisions. Allah knows that which we do not know.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Using equity built through a conventional mortgage

From: dialogue@islam-online.net

Date: 12/24/2001

Name of Questioner

Gender

Age

Education

Email

country of Origin

User Ref. No. 7YAPAC

country of Residence

Question

Assalamu Alaikum, here is the situation: 2 years ago I financed a house with interest. I recently found out that I can go through the Islamic bank. The Islamic bank requires 20% down of the value of the house. Can I use my equity that I earned for the time I lived there to use it for my deposit? Or I have to sell it because it's Riba? Or can you advise me of what I should do? Thank you. Was Salamu Alaykum

My Answer:

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

What you have done is already done. If you have no valid reason for taking an interest

base mortgage you need to make sincere repentance with a renewed pledge that you do not repeat such a prohibited act. Allah Ta'ala is most forgiving and Most Compassionate. He calls on us, all, to always seek his forgiveness.

Whether you have a valid excuse to take such a forbidden contract or not, it is always better to revert to Islamically permitted contracts of financing.

Now, what you paid as principal in the real estate you own, whether as down payment or increments (as part of the monthly payment you are making) or increase in the market value of the property, IS ALL YOURS and you certainly CAN USE IT for paying the 20% needed for your new contract. You don't have to sell the house and buy another one because you bought it with interest. This is not remedy FOR INTEREST YOU PAID. Its remedy is repentance and Istighfar, and may Allah for you and us all for all our sins and mistakes.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

X. CONDITIONS IN HOME FINANCING CONTRACTS

SUBJECT Late fees and penalties

From Islam on line

Date: 2/21/2002

Name of Questioner amal Gender Female

Age 31-45

Education Post Graduate Date Submitted 1/26/2002

Email

country of Origin S A

User Ref. No. Y7Y9QR

country of Res. Ireland

Question

In a buy-in-installments/lease agreement, would a late fee, or a breach of contract penalty fee, be considered Riba? For example, if I miss a payment one month, I would be charged 10 euro for not fulfilling my side of the contract for that particular month, and the lease would be extended one more month.

My Answer:

Dear Sr. Amal

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Late fees are permissible provided they are within a reasonable range that does not hide interest. 10 Euro looks very reasonable because a delay on installment payment creates considerable amount of hassle and cost for the finance provider.

Breach of contract fee is also permissible as long as it is within the expected actual cost of foreclosure and finding alternative use for the funds. Usually preset contractual penalties are too harsh to the extent that they do not represent actual cost. Any substantial

deviation from actual cost fall in the area of unbalanced contractual obligations that are not permissible in Shari'ah.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

XI. GOING FOR HAJJ WHILE UNDER A MORTGAGE DEBT

SUBJECT: Going for Hajj while under mortgage debts

From: Islam on line

Date: March 25, 2002 6:00 PM

Name of Questioner Arezki

Gender Male

Age 31-45

Education High School and Below

Date Submitted 3/10/2002

Email

country of Origin Algeria

User Ref. No. BQ1BBC

country of Res. U K

Question

Assalamu Alaykum, Previously, I had already asked whether is OK for me to perform HAJJ while I am still paying for my MORTGAGE repayment. Many thanks to the Sheikh who said it was OK, as long as I am able to repay it quite comfortably at ease. The thing is, I forgot to mention that I purchased this current house, I had already taken out a Mortgage for a two bedroom house before I got married, which I sold three years ago in order to buy a slightly bigger one-which I now have and the new mortgage repayments are not substantially expensive(very affordable). Just to inform you the reason why I sold the first house and consequently bought the other one which is slightly bigger is because I am now married and I have a son and a daughter. InShaAllah I am planning a bigger family. A friend of mine told me that I had committed a sin. According to him, when I bought the first house it was sort of like a necessity. But since I sold it in order to buy a slightly bigger one it is a sin. I only want to know whether I still can perform Hajj next year InShaAllah while I still have a small Mortgage to pay? Please answer me at your earliest convenience as this matter concerns me rather immensely. Jazakum ALLAH.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Arezki

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

When you buy on interest-based mortgage you should pay it off as soon as you can without disrupting your normal pace of life. Going for Hajj while having a mortgage is a

withdrawals, that you can pay before the end of the grace period so that you will not be involved in interest on the cards, go ahead and send her. Pleasing her, especially at this age is extremely important and obligated by God. Ta'ala. But do not send her with money borrowed on interest and explain it to her because Riba taken without a Shari'ah accepted reason is one of the worst sins a Muslim may commit.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

XII. WORKING IN THE MORTGAGE SYSTEM

SUBJECT: Working as a mortgage broker

From: Islam on line
Date: April 16, 2002
Name of Questioner Malik Gender Male Age 31-45
Education Diploma Date Submitted 3/28/2002 Email
country of Origin United States User Ref. No. TM1IBS country of Res. US

Question

Assalamu Alaikum wa Rahmatullahi wa Barakatuh!!! I am a recent revert to Islam. Recently, I have begun working as a Mortgage Broker, (finding loans for home buyers) I don't work directly for the lenders however I get paid based on the amount of interest the lender will receive. My concern is that I am committing Riba but I'm not sure since I don't get any of the interest. Can you advise me, brother. Jazakallah Khair.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Malik

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Riba (interest) is forbidden in Islam and it is a very grave sin that calls for a war to be declared from Allah and His Messenger on those who insist on dealing with it (Verse 2: 279). As usual, any thing that is prohibited in The Qur'an is explained by the Prophet Muhammad, pbuh, and is always surrounded by circles of precautionary prohibitions. The Prophet, in an authentic saying reported by Muslim, put the wrath of Allah on the taker, the giver, the writer (of contract) and the two witnesses of Riba transactions. The rules of Shari'ah always do not expand on prohibitions. If your job is only to advise home buyer on the best mortgage they can get and you don't fill in applications, witness contracts, etc. and you get commission from lender, even if it is calculated on the basis of

the amount of interest they get, your work and income would be Halal InShaAllah.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Setting an interest-free mortgage company

From: Islam on line
Date: May 23, 2002
Name of Questioner Zia Gender Male Age 31-45
Education Post Graduate Date Submitted 4/30/2002 Email
country of Origin Pakistan User Ref. No. 89652J country of Res. U K

Question

Assalamu Alaikum, I have been thinking to set-up a company where I can provide Interest Free Mortgages to Muslim Ummah. I have spoken to some people and they tell me it will only work if you buy a house for the lender and then rent it to the lender until he pays up the whole loan. Obviously I need to look into the future value of the property and also I would like to make money so I can help other people. Could you please guide me, how this type of system can work in the West so I can start something quickly. I know there are so many needy people out there and I would like to help them.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Zia

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

That is a very good project. It needs a lot of liquidity though. You can follow either of two forms of contracts. 1) Murabahah contract. Here the client ask you to buy a selected house for a know price and promises you that after you buy it she/he will buy it from you on installments at a higher price. There are many details in the contract that you really need to consult a lawyer in the UK and an expert in Shari'ah to prepare the contract unless you have the format that is used by some other Islamic banks and they authorize you to use it. Your profit is the price differential. In this contract you own a promissory note (a debt) and you have to hold it until maturity of all installments you cannot discount it at a finance provider or a band because discounting of debts is forbidden in Shari'ah. 2) a Long lease contract with an open offer to buy certain number of shares of the house along with every rent payment. In this case the house remains in your name and the rent declines in proportion to shares purchased. In the kind of contract you can sell the contract to finance providers or institutional investors because it is a property that you own. Your profit with be the amount of rent. You certainly need a lawyer and a Shari'ah expert to prepare it too.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Working as a real estate agent in Singapore

From: Islam on line
Date: December 25, 2002
Name of Questioner Ina Gender Female Age 31-45
Education Graduate Date Submitted 11/23/2002 Email
country of Origin Singapore User Ref. No. 2CKPC8 country of Res. Singapore

Question

Assalamu Alaykum, I live in Singapore and work as a Real Estate agent selling government homes to my customers who are 99% Muslims (20 % of Singapore population of 4.5million). By January of 2003 the government will let the Banks to take over and have people finance through them. Meaning carrying a mortgage just like they do in USA and other parts of the world. For Muslims, they will not have any other choice but to carry mortgage if they want to own houses. MY QUESTION IS, IS IT OK FOR ME TO CONTINUE WORKING IN THIS BUSINESS TO KEEP SERVING THE MUSLIMS? THIS IS THE ONLY WORK I KNOW HOW TO EARN INCOME. LET ME MAKE IT CLEAR THAT MY INCOME COMES AS A COMMISSION PAID TO ME BY THE SELLER OR THE BUYER. NEVER FROM THE BANK. AND IF WE MUSLIMS STOP SERVING OUR COMMUNITY, THEY WILL BE SERVED BY THE CHINSE OR INDIANS. PLEASE REPLY. JAZAKULLAH KHAYR

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Ina

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

For you to continue, as a real estate agent on commissions, helping people Muslims and others buy houses is certainly permissible because you are not part of the mortgage contract at all, even if you advise your buyer on what mortgage is cheaper for them, as long as you are not a part of the interest-based agreement.

But it seems to me that the matter is bigger than your own work, it is the whole community that needs help avoiding a sin that is described in the Qur'an and Sunnah as one of the worst and most grievous. You said in your questions mortgage like in the USA, BUT IN THE USA WE HAVE NOW OPTIONS THAT ARE PERMISSIBLE IN SHARI'AH, such as lease-to-own contracts and Murabahah contracts. You seem to me in a position where you can help the whole community by introducing these contracts for the Muslim community in Singapore.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Working as a loan Officer in Real estates

From: Tawfiq
Date: December 28, 2002

Question

I currently live in the US, and was thinking of getting a job in Real Estate as a "Loan Officer.

Below, please find a description of what the job consists of:

1. We call on homeowners who may be interested in refinancing their home at lower interest rates.

Hence, the way I look at it (and I maybe wrong) is as follows:

Since I have no control over completely removing interest (the bank is the lender) I at least try to help people pay less interest on their current mortgage and save them money, where applicable. So in the case above we often get customers a lower rate on the mortgage they're carrying.

2. In the current economic situation (people being laid off..) folks often find themselves in dire need for cash. So by refinancing their home, (even if it is at the same rate as they currently have, some banks would actually provide them with 10K or 20K liquid cash, given that they refinance their home with that bank). Note again, I'm not trying to paint a "nice&clean" picture of what a loan officer does. I'm rather offering details of what he/she really ends-up doing. In this case, although we don't always succeed in getting a lower rate for the customer, we often end-up helping him/her get their hands on some cash, so they can survive the tough economic conditions.

Please advise of the "legitimacy" (Halal or Haram) of this job, as it pertains to the Islamic Shari'ah.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Tawfiq

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I believe that deriving your income from this kind of job is not permissible in Shari'ah.

The main thing a loan officer makes is to help people get financing/refinancing regardless of their real needs and circumstances. Getting them some cash, that is very often spent on less than necessary items and circumstance for which the prohibition of borrowing with Riba is relaxed, is also forbidden in the

If you confine your job to helping Muslims only (because non Muslims don't consider it evil) reduce the evil of interest they are under, in a very truthful and honest manner (take

in contrast the case of adding too many points and costs to principal for a slight difference in the rate where the finance officer would actually be drowning the homeowner under more interest-based debts) this may be permissible. Even in this case, I think that such an action must be offered free only on a benevolence basis in order to close the possibility of abuse and mixture or conflict of interests and intentions.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Advising persons under interest-based mortgage

From: Islam on line
Date: January 03, 2003
Name of Questioner Khwaja Gender Male Age 46-60
Education Graduate Date Submitted 11/20/2002 Email
country of Origin Pakistan User Ref. No. I95D3 country of Res. Canada

Question

Assalamu Alaikum, May Allah bless you your efforts and time. I have an opportunity to improve my financial situation by getting involved with Primerica a Financial Services company. I have 7 kids, wife doesn't work, can not work, going in debt very fast, my landlord has asked me to leave the apartment because he wants to sell it, mortgage is Haram, no one would give me a rental property because of family size, only way is to make enough money to buy a house in cash. In this financial service business we advice people on how to reduce debt by offering better products which includes loans and insurance policies with lower interest rates. I can build my own business and make very good money in commission at the same time helping families get rid of or reduce their debt. In a regular job I will never have enough to make ends meet and I will pay more and more interest until I go bankrupt. This society is not for single earner families. I avoided credit based on Riba for 4 years after I came here but finally the system caught up with me. I hate it but I am stuck init. I have a full time job that pays half of my expenses the other half is increasing by debt monthly. I have tried to get a second job and every other thing and I don't get a response from anyone. Is this business Halal or it is Haram for me to do this business to rid myself of Riba forever. Once I have paid my debt and bought a house I would do some trading business without any involvement of Riba. I won't be taking Riba but i will be advising families on how to reduce it which is good in itself. I desperately need your advice on this one I would appreciate if you do not publicize my letter so openly because community will immediately know it is me, I am a well know College Professor and actively involved in community and Da'wa activities.

My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Khwaja

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Advising persons, who are already under interest-based contractual obligations on how to reduce their interest is not bad at all; it is rather good, more good if these persons are Muslims because you would helping them reduce their involvement in sin. You must not write or sign the new reduced-interest contracts, because it is Forbidden. Also helping people in insurance is permissible as most kinds of insurance are permissible and several contractual forms of life insurance are also non-interest based. I am afraid you may be expecting rather too much from this proposed new venture and it may end up not giving you what you expect.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

XIII. USING EARNED INTEREST IN PAYMENT OF A HOUSE

SUBJECT: Using earned interest in partial payment of price of purchased house

From: Islam on line

Date: April 30, 2002

Name of Questioner

Gender

Age

Education

Date Submitted 4/25/2002

Email

country of Origin

User Ref. No. YCYMTG

country of Residence

Question

Assalamu Alaikum. Please advise me on the following. I have purchased a home with my savings and did not engage in mortgage. However, I accrued interest in my savings account and I did not separate the interest from the money I purchased my home with. To my understanding partaking in Riba is declaring a war against Allah. How do I repent? Barak'Allah O'fik.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

What you said is quite correct and InShaAllah your question itself marks the beginning of repentance. Continue with asking for forgiveness from God in your prayers and at the end of each prayer, calculate the amount of interest you got on your savings, and distribute it

to Muslim Charities, best thing at this time those charities that distribute aid to Muslims in Palestine and Gujarat/ India.

The point is that according to Shari'ah this interest you earned on savings is not yours, you never own an increment from a Riba based deposits with banks or other depositees and you need to preserve your own money and assets clean from being mixed with the Forbidden money and you must not return it to the bank because you then would be helping it make more Riba transactions besides making fool of you.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

IVX. REFINANCING TO REDUCE INTEREST

SUBJECT: Refinancing to reduce the interest on mortgage

From: Islam on line
Date: January 13, 2003

Name of Questioner	Gender	Age
Education	Date Submitted 12/1/2002	Email
country of Origin United States	User Ref. No. 4J96IT	country of Res. US

Question

Assalamu Alaykum wa Rahmatu Allah wa Barakatuh. After reading from several Islamic sources that it was permissible, and praying istakhara, my wife and I purchased a house 2 years ago with a 30 year mortgage. Al-hamdulillah in the first year we were able to pay-off 5 years of the mortgage. We are now in the process of re-financing at a lower interest rate and for 15 years with the intention of paying off the debt as quickly as possible. Despite this we still have the question about whether this is permissible, Islamically?

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you live in the USA, there are now companies that offer Islamic house financing in most states. if any of these companies offer you comparable rates for refinancing you should not go to conventional financing institutions. Beside what you did is the right thing when one of us resort, out of need, to conventional house financing we have to make our best to get rid of it ASAP both in terms of length of the period and in terms of the amount of interest we pay (by getting lower rate). May God help and bless you and all of us too.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf
