

Answer to Question

Riba is Riba, whether it is in the Dar ul-Islam or in Dar ul-Kufr

To: Mohammed Abu Khdaib

(Translated)

Question:

Assalamu alaikum,

Could you also explain to us regarding the opinion of Abu Hanifa, Sufyan al-Thawri and others that there is no Riba (usury) in Dar ul-Kufr inferring the hadith (There is no Riba between a Muslim and a harbi in Dar al-Harb) and the evidence that Al-Abbas dealt with usury in Dar ul-Kufr and also arguing that Abu Bakr bet the polytheists in Mecca and the Messenger (saw) supported him, is it permissible to follow such views? Especially for those who the earth confined them in spite of its vastness. Please send that to the Ameer and send it to me privately. Thank you.

Answer:

First: Riba (usury) is prohibited in all of its cases, whether it is Dar ul-Islam or Dar ul-Kufr. Its evidence came general without specification and absolute without restriction, as in the Shari' texts from the Book of Allah Almighty and the Sunnah of His Messenger (saw):

- Allah (swt) says: **«الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ * يَمْحَقُ اللَّهُ الرِّبَا وَيُرْبِي الصَّدَقَاتِ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ»** Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So, whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. * Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever." [Al-Baqarah: 275-276], **«يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ * فَإِنْ لَمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ»** O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you repent then you have your capital (without interest). * And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged" [Al-Baqara: 278-279].

- The Messenger of Allah (saw) said in what Muslim narrated on the authority of Ubadah bin al-Samit who said: The Messenger of Allah (saw) said: **«الذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالنَّبِيذُ بِالنَّبِيذِ وَالشَّعِيرُ بِالشَّعِيرِ وَالتَّمْرُ بِالتَّمْرِ وَالمِلْحُ بِالمِلْحِ مِثْلًا بِمِثْلِ سِوَاءٍ بِسِوَاءٍ يَدًا بِيَدٍ فَإِذَا اِخْتَلَفَتْ هَذِهِ الْأَصْنَافُ فَبِيعُوا كَيْفَ شِئْتُمْ إِذَا كَانَ يَدًا بِيَدٍ»** The gold for gold, the silver for silver, the wheat for wheat, the barley for barley, the dates for dates and the salt for salt; like for like, measure for measure and hand to hand (i.e. immediately) and if they differed sell as you wish if it was hand to hand." Muslim also narrated on the authority of Abu Saeed Al-Khudri, who said the Messenger of Allah (saw) said: **«الذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالنَّبِيذُ بِالنَّبِيذِ وَالشَّعِيرُ بِالشَّعِيرِ وَالتَّمْرُ بِالتَّمْرِ وَالمِلْحُ بِالمِلْحِ»**

«Trade gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, like for like, and hand to hand, for whoever increases or takes an increase will fall into riba, for the taker and the giver alike.»

- Abu Dawood narrated in his Sunan on the authority of Ubadah bin al-Samit: The Messenger Allah (saw) said: «الذَّهَبُ بِالذَّهَبِ تَبْرَهُهَا وَعَيْنُهَا وَالْفِضَّةُ بِالْفِضَّةِ تَبْرَهُهَا وَعَيْنُهَا وَالْبُرُّ بِالْبُرِّ مُدِّيٌّ بِمُدِّيٍّ وَالشَّعِيرُ بِالشَّعِيرِ مُدِّيٌّ بِمُدِّيٍّ وَالنَّمْرُ بِالنَّمْرِ مُدِّيٌّ بِمُدِّيٍّ وَالْمَلْحُ بِالْمَلْحِ مُدِّيٌّ بِمُدِّيٍّ فَمَنْ زَادَ أَوْ أَزْدَادَ فَقَدْ أَرَبَى وَلَا بَأْسَ بِبَيْعِ الذَّهَبِ بِالذَّهَبِ وَالْفِضَّةَ وَالْفِضَّةَ أَكْثَرُهُمَا يَدًا بِيَدٍ وَأَمَّا نَسِينَةٌ فَلَا.» **Gold is to be paid for with gold, raw and coined, silver with silver, raw and coined (in equal weight), wheat with wheat in equal measure, barley with barley in equal measure, dates with dates in equal measure, salt by salt with equal measure; if anyone gives more or asks more, he has dealt in usury. But there is no harm in selling gold for silver and silver (for gold), in unequal weight, payment being made on the spot. Do not sell them if they are to be paid for later. There is no harm in selling wheat for barley and barley (for wheat) in unequal measure, payment being made on the spot. If the payment is to be made later, then do not sell them.»**

- The issue of Riba (usury) has been sufficiently mentioned in our books; the following was mentioned in the book, *The Economic System*, [pg. 244 English version / pg. 250 Arabic edition]:

[Riba and Currency Exchange (Sarf):

Riba (usury) is the practice of taking property for another property of the same type unequally. The money exchange (Sarf) is the practice of taking a property for another property from gold and silver of the same type equally or of two different types equally or preferentially. The exchange can only take place in trade, as for usury, it can only happen in a trade (Bay'u) transaction, in a loan (Qardh) or in a Salam (forward buying)...

Usury does not take place in the Bay'a (trade) and the Salam (advance sale) except in six items only, and they are: dates, wheat, and barley, salt, gold and silver. As for the Qardh (loan), usury can take place in all its types i.e. in everything; it is forbidden for a person to lend something to another, and to expect more or less for it, or to receive something different in return. The settlement of the loan or anything borrowed should be by the same amount and the same type of goods borrowed. The difference between the trading and the Salam on the one hand, and the Qardh on the other hand, is that the former can be exchanged for a different type or for the same type, whereas the Qardh can only be exchanged for the same type and nothing else. As for the evidence that usury can only take place in the six mentioned items, this is derived from the general consensus of the Sahaba and because Muslim reported on the authority of Ubadah bin al-Samit that the Messenger of Allah (SAW) said: «الذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ بِالْبُرِّ وَالشَّعِيرُ بِالشَّعِيرِ وَالنَّمْرُ بِالنَّمْرِ وَالْمَلْحُ بِالْمَلْحِ مِثْلًا بِمِثْلٍ سِوَاءَ سِوَاءٍ يَدًا بِيَدٍ» **«The gold for gold, the silver for silver, the wheat for wheat, the barley for barley, the dates for dates and the salt for salt; like for like, measure for measure and hand to hand (i.e. immediately) and if they differed sell as you wish if it was hand to hand.»** (Narrated by Muslim on the authority of Abu Obadah).

The general consensuses of the Sahaba and the Hadith have mentioned that specific things are subject to Riba, thus it cannot occur except within these things. The Shari'ah principle stating that: "All things are originally permitted unless there is evidence about the prohibition" applies to the things in which Riba occurs. Evidence has not been established regarding any other things except these six that are mentioned, therefore Riba only occurs in them. Things that are from the same origin and things that fit the description, as the six mentioned are included and they follow the same rule, but nothing else. As for the reason ('Illah) behind prohibiting these things, there is no Shari'ah text to that effect, therefore no

reason must be deduced in this instance, simply because the reason must be a Shari'ah one and not rational; and if the reason cannot be deduced from a text, it cannot be recognised.

As for the analogy of the reason, this also cannot be deduced in this instance, for the condition of making analogy in the reason itself must be the presence of a clear and understood description in order that analogy can be made to it. If there were no clear description to be found, there can be no reason behind the rule of prohibition; and things like a primary noun (not derived from a verb form) and a vague description cannot be regarded as divine reason, and analogy cannot be made from it...] **End quote** from the Economic System... This has been detailed in the same chapter, so you can refer to it.

All of this indicates that Riba (usury) is forbidden wherever it is, there is no difference between Dar ul-Islam and Dar ul-Harb, because the texts of the prohibition of Riba are general in their form without specification, and absolute without restriction. And the majority of scholars affirm this as well.

Second: As for what was reported from the Hanafis that it is permissible in Dar ul-Harb, it is the school of Abu Hanifa and his student Muhammad ibn al-Hasan (Abu Yusuf disagreed with them) ...

As for the evidence that they quote on al-Abbas and Abu Bakr, which you have mentioned in your question, it is a matter of opinion:

1- The subject of al-Abbas, may Allah be pleased with him: Abu Jaafar al-Tahawi, [deceased 321 AH] says in his book "Sharh Mushkil al-Athar" under the title (Chapter of Explanation of the problem with what was narrated from the Messenger of Allah (saw), as evidenced by Muhammad ibn al-Hasan in what Abu Hanifa used to say regarding the permissibility of usury between Muslims and among the polytheists in Dar ul-Harb) ... In this chapter, al-Tahawi says:

[...It was in these reports (Athar) that Riba was at that time forbidden in Dar ul-Islam among the people of Islam, then we found the Messenger of Allah (saw) in his sermon on the Farewell Pilgrimage what al-Rabee' al-Muradi had told us, he said: (On the authority of Jabir bin Abdullah, may Allah be pleased with them both, that the Messenger of Allah (saw) said at his Farewell Sermon (Khutbah al-Wida): «وَرِبَا الْجَاهِلِيَّةِ مَوْضُوعٌ وَأَوَّلُ رِبَا أَضَعُهُ رَبَا الْعَبَّاسِ بْنِ عَبْدِ الْمُطَّلِبِ فَإِنَّهُ «**All Riba of the Jahiliyah days (pre-Islamic usury) is now abolished. And the first Riba I abolish is the usury of al- Abbas bin Abd al-Muttalib, for indeed it is completely abolished**»). He added: (Amr ibn Ahwas said: I heard the Messenger of Allah (saw) says: «أَلَا إِنَّ كُلَّ رِبَاٍ مِنْ رَبَا الْجَاهِلِيَّةِ مَوْضُوعٌ، لَكُمْ رُغُوسٌ أَمْوَالِكُمْ لَا تَظْلَمُونَ وَلَا تَظْلَمُونَ» «**All the usuries of the Ignorance days are abolished, but you will have your capital. Do not wrong others and you will not be wronged**») ... This indicated that Riba was taking place in Makkah when it was Dar ul-Harb until it was conquered, because the disappearance of Jahiliyah is by it being conquered, thus the saying of the Messenger of Allah (saw) that the first Riba I abolish is our Riba; the Riba of al-Abbas bin Abd al-Muttalib. This indicates that the usury of al-Abbas was in place until the Messenger of Allah (saw), abolished it, because he only abolished what was existing, not what was lost before he abolished it...

In this there is evidence that al-Abbas had Riba until the conquest of Makkah and he was a Muslim before that, and in this is evidence that Riba was permissible between Muslims and the Mushrikeen in Makkah when it was Dar ul-Harb, and at that time it is forbidden among Muslims in Dar ul-Islam... As Abu Hanifa and Al-Thawri say...) **End quote.**

The most likely answer is:

A- This is not correct to infer that Al-Abbas used to deal with the people of Makkah with Riba because it was Dar ul-Harb, because Makkah became Dar ul-Islam from the time of the conquest, and the conquest was before this hadith was received: If the Messenger (saw) had

said this saying at the time of the conquest of Makkah, it would have had a valid point. However, since the Hadith was uttered two years later, then the point of inference is invalid.

B- Moreover, the connection between riba and jahiliyyah in this hadith «أَلَا إِنَّ كُلَّ رِبَاٍ مِنْ رَبَاِ الْجَاهِلِيَّةِ مَوْضُوعٌ» **“The riba of the Jaahiliyyah is abolished”** may be understood as referring to the type of riba that al-Abbas dealt in before he became Muslim, because jahiliyyah is what comes before Islam. Based on that, what is meant in this hadith is that al-Abbas used to deal in riba before he became Muslim, and he had some riba-based returns that were owed to him by the debtors, but the Prophet (saw) forbade him to take those returns, «وَأِنْ تَبِئْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ» **“But if you repent, you may have your principal [capital]”** [al-Baqarah 2:279]. And he announced that this kind of riba was abolished.

2- As for their inference for what they said: “And because Abu Bakr as-Siddiq, may Allah be pleased with him, wagered with the mushrikeen of Quraysh before the Hijrah [migration to Madinah], when Allah, may He be exalted, revealed the words: «الم * غَلَبَتِ الرُّومُ...» **“Alif, Lam, Meem. The Byzantines have been defeated in the nearest land...”** [Ar-Rum 30:1]. Quraysh said to him: Do you think that the Byzantines will prevail? He said: Yes. They said: Will you make a wager with us? He said: Yes. So, he made a wager with them, and he told the Prophet (saw) about that. The Prophet (saw) said: «أَذْهَبْ إِلَيْهِمْ فَزِدْ فِي الْخَطَرِ» **“Go to them and increase your wager.”** So he did that, and the Byzantines defeated the Persians. Abu Bakr collected his winnings, and the Prophet (saw) allowed that, even though it was essentially gambling between Abu Bakr and the mushrikeen of Makkah, and Makkah was the land of shirk at that time...) And Khatara means gambled or use gambling.

The answer to this is twofold: the first is that majority of scholars think that this has been abrogated, because it took place before the prohibition on gambling was revealed... The second is that of the scholars think that this kind of wager is permissible and is not abrogated, because the aim behind it was to support Islam. This is the view favoured by Sheikh al-Islam Ibn Taymiyah and Ibn al-Qayyim. In both cases, the inference of the permissibility of usury in Dar al-Harb is a likely matter.

3- Accordingly, the most likely in this issue is that usury is forbidden between a Muslim and another Muslim, and between a Muslim and Kafir in the lands of Islam, or the lands of Kufr, or the lands of Harb (war)... This is the view of most of the jurists from the Malikis, Shafi’is and Hanbalis, and for information, here are the sayings of some jurists in this matter:

a- Ibn Qudaamah al-Maqdisi (may Allah have mercy on him) said in al-Mughni: “Riba is haraam in “dar al-harb” just as it is haraam in “dar al-Islam” [Muslim lands]. This is the view of Malik, al-Awzaa’i, Abu Yusuf, ash-Shafa’i and Ishaaq. That is because Allah, may He be exalted, says: «وَحَرَّمَ الرِّبَا» **“[Allah] has forbidden interest”** [al-Baqarah 2:275] and «الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ» **“Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity”** [al-Baqarah 2:275]. And Allah, may He be exalted, says: «يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا» **“O you who have believed, fear Allah and give up what remains [due to you] of interest”** [al-Baqarah 2:278]. The general meaning of the reports confirms that it is haram to pay more than one took. The hadith «فَمَنْ زَادَ أَوْ اسْتَرَادَ فَقَدْ أَرَبَى» **“Whoever gives more or asks for more has engaged in riba”** is general in meaning, as are all the hadiths [on this topic]; moreover, what is haram in “dar al-Islam” is also haram in “dar al-harb”, such as Riba between Muslims”. He also said: “Whoever enters enemy land legally, after being granted safety, should not act treacherously towards them with regard to their wealth, and should not deal with them on the basis of Riba”. And he said: “With regard to the prohibition

on Riba in “dar al-harb”, we have discussed it in the chapter on Riba, in addition to the fact that the verse ﴿وَحَرَّمَ الرِّبَا﴾ “[Allah] has forbidden interest” and all the verses and reports that indicate that riba is forbidden are general in meaning and apply to Riba in all places and at all times”. **End quote.**

b- Al-Nawawi, may Allah have mercy on him, said in Al-Majmoo’, Sharh Al-Muhaddhab: (“The ruling on riba in “dar al-harb” is the same as the ruling thereon in “dar al-Islam”. This was stated by Malik, Ahmad and Abu Yusuf. Our evidence for that is the general meaning of the evidence which indicates that riba is forbidden, and because everything that is forbidden in “dar al-Islam” is also forbidden in “dar ash-shirk” [lands where polytheism prevails], like all other shameful deeds and sins. Moreover, it is an invalid transaction, so it is not permissible for the one contracted to do so, like marriage.”...

c- Imam al-Shafi’i, may Allah have mercy on him, said: “If some Muslims enter bilaad al-harb [a land that is at war with the Muslims] with a guarantee of safety, then the enemy should be safe from them until they leave, or until the period of safety comes to an end. They have no right to transgress against them or act treacherously towards them.” End quote from al-Umm (263/4). He also said in al-Umm (4/284): “If a man enters “dar al-harb” with a guarantee of safety, and is able to capture some of their wealth, it is not permissible for him to take anything of that, whether in small or large amounts, because if he is safe from them, then by the same token they should be safe from him, and it is not permissible for him – after they have granted him security – to take of their wealth anything except that which would be permissible for him to take of the wealth of Muslims or people living under Muslim rule, because taking wealth is disallowed in the following scenarios: firstly, if it belongs to a Muslim; secondly, if it belongs to someone who is living under Muslim rule; and thirdly, if it belongs to someone who has been granted security for a certain period”. **End quote.**

Finally, I ask Allah, Subhanahu, to expand you a pure and lawful sustenance, and to bless you with a good life that you spend in obedience to Allah, so that you will win in both worlds, and that is the great victory.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

08th Muharram 1443 AH

16/08/2021 CE

The link to the answer from the Ameer’s Facebook page:

<https://web.facebook.com/HT.AtaabuAlrashtah/posts/3001003553478982>