

Series of Questions Addressed to Scholar Sheikh Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his Fiqhi Facebook Page

Answer to the Question:

Six Categories of Riba Based Properties

To: Ayn Alhak, Zakaria Karimeh, Ayman Alfjjary and Hisham Is'efan

(Translated)

Questions:

Question of Ayn Alhak:

Assalaamu Alaikum Wa Rahmatullahi Wa Barakaatuhu our respected Sheikh. May Allah assist you with the victory from Him and grant you, the Hizb and the Ummah a clear victory...

I have a question about selling dates in the case where they are from the seven categories mentioned in the Hadeeth of 'Mubaadalah' (Exchange). Is it permissible to sell dates for Darahim for a future time of payment? I mean if I was to buy one kilogram of dates and then pay its price afterwards? Please benefit us in acquiring knowledge and may Allah reward you with goodness. This question comes because this is the season of dates. May Allah reward you all with goodness.

Question of Zakaria Karimeh:

May Allah bless you but what about delayed payment by instalments? Is it permissible if the buying of the gold was done with paper currency?

Question of Ayman Alfjjary:

What is the difference between buying gold as a debt (and why is it Haraam) and between the loan which is permissible according to what has been mentioned in the paragraph in the subject of *Riba* (usury) and *Sarf* (exchange) in the *Economic System of Islam*?

Question of Hisham Is'efan:

Assalaamu Alaikum our Sheikh and our Ameer... warm greetings to you... the following Hadeeth was mentioned in the book *Economic System of Islam* in the chapter of Riba and Sarf (exchange) on page 259: «الذهب بالذهب والفضة بالفضة والبر بالبر والشعير بالشعير والتمر بالتمر والملح بالملح مثلا بمثل...» **«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...»** until the end of the Hadeeth. My question is and may Allah bless you... Are these four foodstuffs explicitly mentioned in the Hadeeth treated in the same manner as the gold and silver in selling and buying? So for instance is it permissible for me to take as a debt a bag of flour whilst it is recorded upon its cost/value. Or is there a difference in dealing between two currencies and between these foodstuffs mentioned in the Hadeeth? And is the manufactured different from the ore? I apologise for the length of the question and Baarakallahu Bikum and As-Salaamu Alaikum wa Rahmatullah.

Answer:

Wa Alaikum Assalaam Wa Rahmatullah Wa Barakaatuhu,

Your four questions are similar and for that reason we will answer them by way of a single answer whilst paying attention to the Riba based types of property being six: 'Gold, silver, wheat, barley, dates and salt' and not seven as mentioned in the first question.

The answer to these questions is as follows:

1) The Messenger of Allah (saw) said: «الذهب بالذهب، والفضة بالفضة، والبر بالبر، والشعير بالشعير، والتمر بالتمر» **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 Al-Bukhaari and Muslim by way of ‘Ubaadah Bin As-Saamit may Allah be pleased with him.

The text is clear in the case where there is a difference in the Riba based types or categories as the trade can occur as you wish which means that it is not a condition for it to be like for like however taking possession is a condition. The Lafzh (worded expression) ‘Al-Asnaaf’ (categories) is mentioned in an ‘Aamm (general) form in respect to all of these Riba based types, meaning the six. Nothing is exempted from this unless there is a text and in the case where there is no text then the Hukm is the permissibility of exchanging the wheat for barley, or the wheat for gold, or the barley for silver, or the dates for salt, or the dates for gold, or the salt for silver etc... It is permissible to exchange these irrespective of how much the value of the exchange or the prices have differed as long as it is hand to hand i.e. it is not as a loan. What applies to the gold and the silver also applies to the paper currency due to sharing the ‘Illah (reasoning) of ‘Naqdiyah’ (acting as a currency) where it is utilised as a price and for wages.

2) There was an exception from ‘the obligation of taking possession at the time of trading the Riba based categories or type’ in the case of the *Rahn* (collateral) when buying the four types: ‘wheat, barley, salt and dates’ by *Naqd* (currency). This is due to the Hadeeth of Muslim from ‘Aishah (ra) that the Messenger of Allah (saw): «اشترى من يهودي طعاماً إلى أجل، ورهنه ذرعاً له من حديد» **“Purchased food from a Jew to a deferred time of payment and gave him a shield from iron as a security”**. This means that the Messenger of Allah (saw) purchased food by taking a debt (upon it) however this was done with a *Rahn* (collateral). Their food at that time was from the Riba based types. This is like what was mentioned in the Hadeeth: «الطعام بالطعام مثلاً بمثل وكان» **“The food for food like for like and our food at that time was barley”** as collected by Ahmad and Muslim by the path of Mua’mmar Bin Abdullah. Therefore it is permissible for you to buy the Riba based categories by way of a debt if something is left as a collateral with the seller until the time of presenting the cost.

3) Then if the one lender and indebted are secure with one another there is as a result no need for a *Rahn* (collateral). The evidence for that is His Speech (swt):

﴿وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَّقْبُوضَةٌ فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمَاتَتَهُ وَلْيُسْقِ اللَّهَ رَبَّهُ﴾

“And if you are on a journey and cannot find a scribe, then a security deposit [should be] taken. And if one of you entrusts another, then let him who is entrusted discharge his trust [faithfully] and let him fear Allah” [2: 283].

This noble Aayah establishes that the collateral in respect to the debt during travelling is done without collateral if the lender and the indebted trust one another. This is applied to the collateral when purchasing by way of a debt the four Riba based categories: ‘wheat, barley, salt and dates’. It is therefore as Allah (swt) said: ﴿فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا﴾ **“And if one of you entrusts another”**

Its Dalaalah (textual implication) is clear here, in this case, in respect to the collateral (deposit) not being required.

4) It is therefore permissible to purchase the four Riba based categories: ‘Wheat, barley, dates and salt’ with currency as a debt with or without a collateral for the payment of the debt in the case where both the seller and the buyer are secure with one another and trust each other... In these two cases, purchasing in these categories through a debt is permissible. This means that the salt which you asked about purchasing by a debt is permissible in the case when the noble Ayah is realised: ﴿فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا﴾ **“And if one of you entrusts another”**.

This is what I have outweighed to be the strongest opinion in this issue and Allah knows best and is Most Wise.

5) It is worth knowing that the following was mentioned in the *Explanation of Saheeh Al-Bukhaari* by Ibn Battaal in the chapter ‘Purchasing food for a delayed payment’: “There is no

disagreement amongst the people of knowledge that it is permissible to buy food for a known price for a known (defined) time (of payment)".

And it was mentioned in the book: '*Al-Fiqh 'Alaa Al-Madhaahib Al-Arba'a*' of Al-Juzairi in regards to purchasing the Riba based categories: "As for if one of means of exchange was a currency and the other was a food then it is valid for it to be delayed (in payment i.e. deferred)".

And it was mentioned in '*Al-Mughni*' of Ibn Qudamah al-Maqdisi when he was discussing the prohibition of trading the four types with each other by incurring a debt... He said: "Unlike if the four types are sold by dirhams or other weighted items for delayed payment therefore the need for collateral is needed."

Conclusion:

1) It is permissible to trade dates, wheat, barley and salt by currency as a debt with a collateral to pay the debt **or without a collateral if the seller and purchaser are secure with and trust one another**.... in other than these two situations it is not permissible.

2) Buying gold with the currency as a debt is absolutely not permissible whether the currency was gold or paper currency and whether the debt was all deferred as a whole or was by instalments in the case where a part was paid immediately whilst the rest was divided into instalments... In this latter case of instalments by paying a part of the cost up front, then that which is valid to be undertaken in respect to trading gold is that where its cost is paid at once; meaning by the first instalment. As for what is paid of the cost in the rest of the instalments then the trade in it is not valid... If however all of the instalments were delayed where none of it was fulfilled immediately then the trade as a whole is not valid due to the application of the evidences of exchanging the Riba based properties upon it.

3) As for loaning gold, silver, currency and the remainder of the Riba based categories; it is permissible with a condition and that is that nor profit is gained and that is because it differs from the trade and the exchange even if it looks similar. This is because trade and exchange includes the exchange of money with money of its kind or from another kind. As for the loan then it means the giving of money to another to then receive it from him (later) as it was (i.e. without change). The loan is undertaken by way of leniency and kindness and its evidences are different from the evidences of trade and the evidences of trading the Riba based properties do not apply to it so as to make it Haraam like the trade of gold for a delayed payment... Rather its evidences pronounce its permissibility and Muslim related from Abu Raafi': «أن رسول الله صلى الله عليه وسلم استسلف من رجل بكرة، فقدمت عليه إبل من إبل الصدقة، فأمر أبا رافع أن يقضي الرجل بكرة، فرجع إليه أبو رافع فقال: لم أجد فيها إلا خياراً» "That Allah's Messenger (saw) took a young camel (under six years old) from a man as a loan. Then a camel from the camels of Sadaqa were brought to him. So he ordered Abu Rafi' to return to that person the young camel (as a return of the loan). Abu Rafi' returned to him and said: I did not find among them but better camels above the age of six. He (the Holy Prophet) said: **"Give that to him for the best men are those who are best in paying off the debt"**. And Ibn Hibban related from Ibn Mas'oud that the Prophet (saw) said: «ما من مسلم يُقرض مسلماً قرضاً مرتين إلا كان كصدقة مرة» **"There is no Muslim who gives a Muslim a loan two times except that it would be like the Sadaqah (once)"** and the Prophet (saw) used to take loans.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer of the Ameer's page of Facebook:

<https://www.facebook.com/Ata.abualrashtah/photos/a.154439224724163.1073741827.154433208058098/509892592512156/?type=3>