

Dealing with the bank

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: Is it permissible to rent or sell locals for the banks that are called Islamic?

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee (May Allaah the Most High preserve him): All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

What should be known is that the current commercial institutions have some dealings which are approved of by the Sharee'ah and which consist in offering services and facilitating providing for some needs; these dealings are known by the services, and others which are not approved of by the Sharee'ah and which represent the major part. In fact, the latter are linked to usurious transactions which are forbidden by explicit texts of the Sharee'ah. These unlawful transactions are done by loans or by entering into illicit projects or by concluding invalid contracts.

However, it is known that if there is illicit things mingled with licit things, unlawfulness prevails over lawfulness, and it is the majority which is taken into account, as "The major part of a thing stands for the whole part of it", as it is established in the principles of jurisprudence.

That being said, the Islamic banks –though they are described as Islamic-, are similar to the other banks and financial institutions in general. Furthermore, what happens in the Islamic banks like the profit selling (Al-Muraabaha selling)¹ which are considered like the usurious

¹ Al-Muraabaha (the profit) selling according to the banks:

The banks qualify Al-Muraabaha (profit) selling by: "Al-Muraabaha selling for the buyer" or "a promise of buying" or "a promised buying" or "buying on promise".

We can define it as: "A request to buy merchandise made by a buyer to the bank. The bank accepts, and then every side makes a promise; one to buy, the other to sell, for a price and profit beforehand defined"

Its form: "The person who wants to buy the merchandise goes to a bank, because he has not enough money to buy it for cash and because the seller does not sell it for him on credit. Either because he does not practice the transactions on credit or he does not know the buyer or he needs money in cash. The bank buys it in cash and sells it to the buyer on credit, but at a higher price. This is made under two steps. The step of promise on profit and the conclusion of the profit selling. This promise is obligatory for the two parts (the bank and the buyer). It is required by some Islamic banks and not required by some others. [See: Bay` Al Muraabaha Li Al-Aamir Bi Esh-Shiraa' Fi Al-Massaarif Al-Islamiyya (The profit selling for the buyer according to the Islamic banks)].

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loans of the usurious banks, is in fact only a trick that disguises the operation of a loan with usurious interest, in addition to other non permissible acts which are linked to the contract like selling what one does not own, or the selling with a condition.

Hereupon, helping someone by selling an estate or other things to him if we know that he will use them in things that Allaah (*Mighty and Majestic is He*) is not pleased with, is helping one another in sin and transgression. In fact, he helps by so doing, this abstract body, which is established upon a basis of usury, and allows it to endure and continue to exist.

In addition, this transaction is considered as an approval or a contribution and a help in a forbidden deed in an indirect way.

The interdiction of such a transaction is similar to the interdiction of selling grapes to a person, who will transform them into wine, or selling weapons to someone who will cause disorder. In fact, the sin is not limited to the person who commits it, but it also affects those who contribute with him by any effort whether material or artistic. That is why the Prophet (*peace and blessings of Allaah be upon him*) curses the usury receiver, giver, recorder and the two who witness it. All these will incur sin according to their contribution in usury, since whatever leads to the establishment of a prohibition is itself prohibited, and whatever helps in the establishment of something prohibited is prohibited and whoever helps in the establishment of something forbidden will get his share of sin.

Allaah (*Mighty and Majestic is He*) said:

﴿وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ﴾

The meaning of the verse:

﴿Help you one another in Al-Birr and At-Taqwaa (virtue, righteousness and piety); but do not help one another in sin and transgression﴾
[Al-Maa'idah (The Table Spread with Food): 2]

The perfect knowledge belongs to Allaah (*Mighty and Majestic is He*). Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and Brothers till the Day of Resurrection.

Algiers, Sha`baan 18th, 1424H. Corresponding to: November 15th , 2000.

So, the bank selling called Al-Muraabaha is based on the following: promise then buying then selling.

- The buyer presents an application to the bank in order to buy merchandise.
- The bank accepts to buy from him the merchandise.
- The buyer makes a promise of buying the merchandise from the bank.
- The bank makes a promise of selling the aforesaid merchandise to the buyer. The promise may be obligatory for the majority of banks.
- The bank buys the aforesaid merchandise.
- The bank sells the aforesaid merchandise to the buyer on credit and for a higher profit beforehand agreed upon by the two sides.

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