126056 - A detailed response to the arguments of those who regard it as permissible to deal in riba with the disbelievers in their countries

the question

I live in one of the Scandinavian countries, where the problem of riba [usury or interest] – or, more correctly, the disease of riba – is widespread among the Muslims. That is because of a fatwa that they follow, that they took from an official *dar al-iftaa'* [fatwa-issuing body] in one of the Arab countries, on the grounds that Islamically invalid financial transactions with disbelievers who are in a state of war with the Muslims are permissible. They attribute that to Abu Haneefah (may Allah have mercy on him) and his student Muhammad ibn al-Hasan. I have sent you a link to that fatwa. We hope that you can respond in detail, so that your fatwa will explain the truth.

Detailed answer

Praise be to Allah.

Firstly:

Riba is a major sin, and Allah has threatened those who deal in riba with destruction of their wealth in this world, and severe punishment in al-barzakh and on the Day of Resurrection.

Allah, may He be exalted, says (interpretation of the meaning):

"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.

Indeed, those who believe and do righteous deeds and establish prayer and give zakah will have their reward with their Lord, and there will be no fear concerning them, nor will they grieve.

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 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-Baqarah 2:275-279].

The Prophet (blessings and peace of Allah be upon him) stated that consuming riba is one of the sins for which the doer will be severely punished in the grave. See the answer to question no. 8829 .

What is happening now – in Shawwaal 1429 AH [October 2008 CE] – of global economic collapse is the inevitable outcome of the spread of riba and its being practised openly. This is one of the forms of destruction with which Allah threatened those who deal in riba. *"And the punishment of the Hereafter is more severe and more enduring" [Taa-Haa 20:127]*.

We are very astonished at those muftis who seek loopholes to permit riba, or look for weak views on which to base the fatwas that they issue to the people, thus making permissible what is forbidden and paving the way for people to commit this major sin, which is one of the major sins that doom a person to punishment, instead of forbidding them to do it, warning them against it, guiding them to that which is good and permissible of food, clothing and housing, and warning them against consuming that which is haraam. "Every body that is nourished from haraam sources, the Fire is more appropriate for it." [Hadith]

The punishment for the one who tries to find loopholes in order to allow things that are forbidden according to Islamic teaching is well known. Allah transformed the Sabbath-breakers into monkeys

as a punishment for their seeking loopholes to allow them to do that which Allah had forbidden.

With regard to the scholars' views (that are based on their own efforts to work things out) – with all the respect and love that we have for them, may Allah have mercy on them – it is well-known that it is not binding upon us to follow those views. Rather they are efforts on their part (may Allah have mercy on them) to reach the correct conclusion. Some of their views are correct and in accordance with truth, and others are incorrect. The scholar who got it wrong will have a single reward for his efforts and attempt to reach the correct conclusion, and the scholar who got it right will have a double reward, as the Prophet (blessings and peace of Allah be upon him) said: "If the judge issues a verdict after trying to work it out and gets it right, he will have two rewards, and if he issues a verdict after trying to work it out and gets it wrong, he will have one reward."

We have no right to follow them in what they got wrong; rather what is required of every Muslim is to follow the Qur'an and Sunnah. Allah, may He be exalted, says (interpretation of the meaning): *"And follow the best of what was revealed to you from your Lord" [az-Zumar 39:55]*.

Allah, may He be exalted, says concerning the People of the Book (interpretation of the meaning): *"They have taken their scholars and monks as lords besides Allah" [at-Tawbah 9:31]*. They [the scholars and monks] used to permit to them that which was forbidden, and forbid to them that which was permitted, so they followed them in that. This is what some muftis do nowadays, which is most unfortunate.

Secondly:

Despite the clear prohibition on riba in the Book of Allah, may He be exalted, and the Sunnah of the Prophet (blessings and peace of Allah be upon him), we find some who come along and permit this type of blatant riba on the grounds that this form of riba does not come under the heading of riba. They use trickery in this case by changing the name of riba or avoiding using the word. So instead of calling it "riba-based (usurious) returns", they call it "returns on investments." The Prophet (blessings and peace of Allah be upon him) told us of people who would drink khamr (alcohol), but they would call it by some other name, and he described that as being one of the

reasons why the earth swallowed them up and why they were transformed into monkeys and pigs. These people are dealing with riba as the others dealt with khamr, and riba is more emphatically prohibited than khamr and is a worse sin.

Some of them permit riba on the grounds that this was the fatwa of Abu Haneefah (may Allah have mercy on him)! In addition to being a fabrication against Islamic teachings by permitting this type of riba, it is also a fabrication against Abu Haneefah, who never said what they attribute to him.

To explain briefly we may note that whoever bases his fatwa on that view has gone against what Abu Haneefah said on two counts:

Firstly, these muftis do not regard Western countries as “diyaar harb [lands that are in a state of war against Muslims]” and do not even call them “diyaar kufr [lands of disbelief]”! The fatwa of Abu Haneefah is only applicable in dar al-harb [a land that is in a state of war against Islam].

The scholars differentiate between “dar al-harb [a land in a state of war against Muslims]” and “dar al-kufr [a land of disbelief]”. Dar al-kufr is a land which is under the control and authority of the disbelievers, who rule it according to their laws and systems. Dar al-harb is a land under the control of the disbelievers, with which there is no treaty, covenant or peace deal. A land may be “dar kufr” but not “dar harb” because there is a covenant or peace deal between us – Muslims – and that land, agreeing to refrain from fighting for a set period of time.

The one who wants to base his view on the words of Abu Haneefah must first of all describe that land as being “dar harb”. If he is not able to do that, then he has no right to quote the words of Abu Haneefah as evidence in a way that is contrary to what Abu Haneefah said.

Secondly, Abu Haneefah issued his fatwa stating that it is permissible for Muslims to accept riba from the people of that land, not for the Muslims to pay riba to them! That is because their wealth is permissible for the Muslims on the grounds that their land is “dar harb”, so capturing it in this way is permissible in his view.

Look and compare the fatwa of that leading scholar [Abu Haneefah], even though we disagree

with it, and the fatwas of these people, and you will see a huge difference between them in terms of form and ruling.

The conditions for it being permissible to deal with riba according to Abu Haneefah and those of the Hanafis who agree with him are as follows:

1. The transaction should be done in their land
2. Their land should be “dar harb”
3. The Muslim should be the one who takes riba, not the one who gives it.

See: *al-Mabsoot* (14/56).

The correct view – which is that of most of the scholars, including the imams Maalik, ash-Shaafa‘i and Ahmad – is that riba is haraam between one Muslim and another, and between a Muslim and a disbeliever in Muslim lands, non-Muslim lands (dar kufr) and hostile non-Muslim lands (dar harb).

Ibn Qudaamah al-Maqdisi (may Allah have mercy on him) said:

Riba is haraam in “dar al-harb” just as it is haraam in “dar al-Islam” [Muslim lands]. This is the view of Maalik, al-Awzaa‘i, Abu Yoosuf, ash-Shaafa‘i and Ishaaq.

That is because Allah, may He be exalted, says (interpretation of the meaning): *“[Allah] has forbidden interest” [al-Baqarah 2:275]* and “*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: “*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 haraam to pay more than one took. The hadith “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 haraam in “dar al-Islam” is also haraam in “dar al-harb”, such as riba between Muslims. End quote.

Al-Mughni (4/47).

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. End quote.

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 *“[Allah] has forbidden interest” [al-Baqarah 2:275]* 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.

Al-Mughni (9/237).

An-Nawawi (may Allah have mercy on him) said:

The ruling on riba in “dar al-harb” is the same as the ruling thereon in “dar al-Islam”. This was stated by Maalik, Ahmad and Abu Yoosuf. 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 the transaction that is based on riba cannot be regarded as permissible. End quote.

Thirdly:

The Hanafis in the past – and those who follow them in modern times – based their view on reports that are da‘eef [weak] in terms of isnaad [chain of narration] and do not support their argument.

The evidence that they quoted includes the following:

1.

The report narrated by Mak-hool from the Messenger of Allah (blessings and peace of Allah be

upon him), according to which he said, “There is no riba between a Muslim and a harbi [non-Muslim whose people are in a state of war against Muslims] in dar al-harb.”

The response to this argument is that this hadith is mursal, because Mak-hool was one of the Taabi‘een, and mursal is one of the categories of da‘eef [weak] hadiths. It was classed as da‘eef by Imam ash-Shaafa‘i, Ibn Hajar, an-Nawawi and others.

Imam ash-Shaafa ‘i (may Allah have mercy on him) said:

The evidence that Abu Yoosuf quoted in support of the view of Abu Haneefah is not proven, so it does not count as evidence. End quote.

Al-Umm (7/358-359).

An-Nawawi (may Allah have mercy on him) said:

Our response to the hadith of Mak-hool is that it is mursal and da‘eef, so it cannot be quoted as evidence. If it were saheeh [sound], we should understand it as meaning that riba is not permissible in dar al-harb, so as to reconcile the evidence. End quote.

Al-Majmoo‘ (9/488).

Ibn Hajar (may Allah have mercy on him) said:

I could not find it.

Ad-Diraayah fi Takhreej Ahaadeeth al-Hidaayah (2/158).

2.

They quoted as evidence the hadith about Banu Qaynuqaa‘ and said: When the Prophet (blessings and peace of Allah be upon him) banished them, they said: We are owed debts that have not yet become due. He said: “Waive some of the debt in return for immediate payment.” When he banished Banu’n-Nadeer, they said: People owe us debts. He said: “Waive some of the debt in

return for immediate payment.”

As-Sarkhasi explained how this report proved his point by saying: It is well-known that such transactions – the riba referred to in the words “Waive some of the debt in return for immediate payment” – are not permissible among the Muslims. If the one who is owed a debt to be paid later waives some of it on condition that the debtor pay some of it immediately, that is not permissible. ‘Umar, Zayd ibn Thaabit and Ibn ‘Umar (may Allah be pleased with them) disapproved of it, but the Messenger of Allah (blessings and peace of Allah be upon him) regarded it as permissible in these two cases, because these two tribes were “ahl al-harb” [in a state of war against Muslim] at that time, and that is why he banished them. Thus we know that a particular transaction may be permissible between a harbi and a Muslim that is not permissible between Muslims. End quote.

The response to this argument is that this hadith is da‘eef and is not saheeh.

With regard to the hadith about Banu Qaynuqaa‘, it was narrated by al-Waaqidi in his *Maghaazi*. The hadith about Banu’n-Nadeer was narrated by al-Haakim in *al-Mustadrak* (2/61) and by ad-Daaraqutni in *as-Sunan* (6/28). Its isnaad includes Muslim ibn Khaalid az-Zanji al-Makki, of whom Imam al-Bukhaari said: He is munkar al-hadith [that is, his hadith is odd and to be rejected]. Hence when al-Haakim said of this hadith, Its isnaad is saheeh although they [al-Bukhaari and Muslim] did not narrate it, adh-Dhahabi commented on that by saying: az-Zanji is da‘eef, and ‘Abd al-‘Azeez [another narrator] is not trustworthy. After narrating this hadith, ad-Daaraqutni said: Its isnaad includes Muslim ibn Khaalid, who has a poor memory and is weak. He was confused when he narrated this hadith. Ibn al-Qayyim classed this hadith as hasan, as stated in *Ahkaam Ahl adh-Dhimmah* (1/396).

Moreover, this issue is well known to the fuqaha’ as the issue of waiving part of the debt in return for immediate payment of the rest. This refers to cases where someone is owed money to be paid at a later date by someone else, then they agree to hasten repayment of the debt in return for waiving part of it. The fuqaha’ differed as to whether this is permissible; the correct view is that it is permissible and has nothing to do with riba. Based on that, the Hanafis’ quoting it as evidence for the permissibility of riba between a Muslim and a harbi is not correct; rather it is permissible,

like that between one Muslim and another.

Foremost among those who regarded it as permissible is the great Sahaabi ‘Abdullah ibn ‘Abbaas (may Allah be pleased with him). Shaykh al-Islam Ibn Taymiyyah and his student Ibn al-Qayyim agreed with him on that, and fatwas stating that it is permissible were issued by the scholars of the Permanent Committee, and by Shaykh al-‘Uthaymeen. A statement to that effect was issued by the Islamic Fiqh Council, and it was regarded as permissible by Ibn ‘Aabideen, one of the Hanafi fuqaha’.

See: *Haashiyat Ibn ‘Aabideen* (5/160).

Ibn al-Qayyim (may Allah have mercy on him) said:

If the creditor wants to travel and fears that his wealth may vanish and be lost, or he needs it and cannot ask for it before the due date, and he wants to waive some of the debt on condition that he be given the rest immediately, then the scholars of the earlier and later generations differed concerning this issue.

Ibn ‘Abbaas regarded that as permissible, whereas Ibn ‘Umar regarded it as haraam. Two views concerning that were narrated from Ahmad, the more well-known of which is that it is not allowed. This is the view favoured by the majority of his companions.

The other view is that it is permissible. This was narrated by Ibn Abi Moosa, and is the view favoured by our shaykh – i.e., Ibn Taymiyah.

Ibn ‘Abd al-Barr narrated that in *al-Istidhkaar*, in a report from ash-Shaafa‘i, but his companions are hardly aware of this view and do not narrate it. I think that if this view is soundly narrated from ash-Shaafa‘i, then that is provided that it takes place without prior stipulation; rather if the debtor hastens to pay off some of his debt ahead of time – which is permissible – and the creditor lets him off the rest of it, even if that was stipulated before it was waived in return for immediate payment, then they did that on the basis of prior stipulation, it is valid in his view, because the condition that counts according to his view is the condition stipulated at the time of drawing up the loan contract,

not the condition prior to agreeing on waiving part of the debt in return for immediate repayment. This was stated clearly by some of his companions; the rest of them said that if he does that without prior stipulation, it is permissible. What they meant is a condition stipulation at the time of drawing up the loan contract.

As for Maalik, he did not regard it as permissible, either with or without prior stipulation, so as to ward off means [that could lead to haraam]. As for Ahmad, he regarded it as permissible in the case of a debt that is written down; with regard to other kinds of debts, there are two reports from him.

This is the opposite of riba, because riba includes extension of the time for payment and increase of the debt owed, which is pure harm to the debtor. Our issue here is clearing the debt of the debtor, and benefitting the creditor by hastening repayment of what is agreed upon. Both parties benefit without incurring any harm, in contrast to riba on which there is consensus that it is haraam, because the harm thereof affects the debtor, and the benefit is only for the creditor. This is the opposite of riba in both the way it is done and the meaning thereof. End quote. *Ighaathat al-Lahfaan* (2/11-13).

See the view of the Permanent Committee and of the Islamic Fiqh Council in the answer to question no. 13945.

3.

Another thing that they quoted as evidence is the incident in which the Prophet (blessings and peace of Allah be upon him) wrestled with Rukaanah when he was still in Makkah. The Messenger of Allah (blessings and peace of Allah be upon him) wrestled him for one third of his flock each time. If that was makrooh (disliked), the Messenger of Allah (blessings and peace of Allah be upon him) would not have done it. When he defeated him for the third time, Rukaanah said: No one has ever wrestled me to the ground; you are not the one who wrestled me to the ground [i.e., you have divine help]. And the Messenger of Allah (blessings and peace of Allah be upon him) returned the sheep to him.

As-Sarkhasi said: He returned the sheep to him out of generosity. The Messenger of Allah (blessings and peace of Allah be upon him) often did such things with the mushrikeen to soften their hearts, so that they would believe.

They quote this as evidence for it being permissible to deal with the disbelievers on the basis of transactions that are invalid and prohibited according to Islamic teachings, because wagering or betting (which comes under the heading of gambling) is definitely prohibited according to our laws and religious teachings.

The response to this argument is that the Prophet's wrestling with Rukaanah may be understood in one of two ways:

Firstly, that this is an abrogated ruling, because it took place in Makkah before the prohibition on gambling was introduced in Madinah. This is the view of the majority of scholars.

Secondly, this is an action that is permissible until the Day of Resurrection, and it comes under the heading of permissible wagers or bets, because the aim was to support Islam, and everything that is like that is permissible according to a number of scholars. This is the view of Shaykh al-Islam Ibn Taymiyah and Ibn al-Qayyim (may Allah have mercy on them both). On the basis of the same argument we may also refute their citing of Abu Bakr's wager with the mushrikeen in Makkah, as we shall see below. This wager comes under the heading of betting that is mentioned in the hadith. It was narrated from Abu Hurayrah (may Allah be pleased with him) that the Prophet (blessings and peace of Allah be upon him) said: "Stakes [prizes] are only allowed in archery contests and races between camels or horses." Narrated by Abu Daawood (2574) and at-Tirmidhi (1700); classed as saheeh by al-Albaani in *Saheeh Abi Daawood*.

What is meant by stakes is prizes that are given to the winners.

Ibn al-Qayyim (may Allah have mercy on him) said:

Once this is established, this is evidence that it is permissible to make a wager between two people. This is similar to the wager of Abu Bakr as-Siddeeq, because in each case there was a

wager for the purpose of supporting the religion. Rukaanah was one of the strongest and toughest of the people, and it was not known that anyone had ever managed to wrestle him to the ground, so when the Prophet (blessings and peace of Allah be upon him) wrestled him to the ground, he realized that he was supported by extraordinary strength from Allah, hence he said: By Allah, no one ever wrestled me to the ground, and he had never been defeated. By wrestling him, the Prophet (blessings and peace of Allah be upon him) wanted to show him signs of his Prophethood and demonstrate the strength and advantage with which Allah was supporting him. Hence the wager in that case was like the wager in the story of Abu Bakr, but the story of Abu Bakr was supporting the religion on the basis of knowledge [the prophecy in the Qur'an], whereas in the case of Rukaanah, support of the religion was done on the basis of strength and ability. The religion is supported by these two things: knowledge and power, so wagering on these two things was like a wager on archery or riding, because those things help to support the religion. So it was a wager on truth, and earning wealth by this means is earning it legitimately. But because the Prophet's aim was to make the word of truth supreme and cause it to prevail, he returned the wealth and did not take anything of it, and that man became Muslim. These wagers on the part of the Messenger of Allah (blessings and peace of Allah be upon him) and Abu Bakr come under the heading of jihad, by means of which Allah causes His religion to prevail, so it is akin to the three exceptions mentioned in the hadith of Abu Hurayrah. But those three things come under the heading of jihad, in contrast to wrestling, which is not regarded as jihad; rather it only becomes akin to jihad if it involves supporting the truth and making the word of truth supreme, as when the Prophet (blessings and peace of Allah be upon him) wrestled with Rukaanah. If the three exceptions are intended to show pride, rise in worldly status or wrong people, then they are blameworthy. So if wrestling, foot racing and the like are intended to support Islam, then they are acts of obedience, in which case claiming the stakes or prize is lawful, because the cause is lawful, and the basic principle concerning wealth is that it can only be acquired lawfully, not unlawfully…

This report indicates that it is permissible to make a wager between two people in the context of supporting the truth and making it prevail, and confirming the truthfulness of the Messenger (blessings and peace of Allah be upon him). End quote.

Al-Faroosiyyah (203-205).

Thus it becomes clear that what they quote about the Prophet (blessings and peace of Allah be upon him) wrestling with Rukaanah in Makkah is not fit to be quoted as evidence for the permissibility of engaging in invalid contracts with the disbelievers in “dar al-harb”. According to the majority of scholars, that was abrogated by the prohibition on gambling, on the grounds that bets or wagers between two people are a type of gambling or, according to the other view – which is more likely – that this action is permissible and comes under the same ruling as what is mentioned in the hadith of Abu Hurayrah about it being permissible to place wagers on horse and camel races, archery competitions, and other things that help to support Islam.

4.

Another thing that they quoted as evidence to support their view is what the Prophet (blessings and peace of Allah be upon him) said, according to the report of Ibn ‘Abbaas (may Allah be pleased with him) who said: The Prophet (blessings and peace of Allah be upon him) said: “All matters of the Jaahiliyyah are abolished beneath my feet. The riba of the Jaahiliyyah is abolished, and the first riba that I abolish is that of al-‘Abbas ibn ‘Abd al-Muttalib; it is all abolished.”

They quote this hadith as evidence and conclude that after al-‘Abbaas (may Allah be pleased with him) became Muslim, after he was brought as a captive following the Battle of Badr, he asked the Messenger of Allah (blessings and peace of Allah be upon him) for permission to return to Makkah after becoming Muslim, and he gave him permission. He used to deal in riba in Makkah until the time of the conquest, and his action was not unknown to the Prophet (blessings and peace of Allah be upon him). As he did not forbid him to do that, this indicates that it was permissible; rather what was abolished was riba in “dar al-harb” that had not yet been paid before the conquest occurred and Makkah became “dar al-Islam”. Hence the Messenger of Allah (blessings and peace of Allah be upon him) abolished riba at the time of the conquest.

This argument can be refuted on several counts:

i. The words of the Messenger of Allah (blessings and peace of Allah be upon him), “the first

riba that I abolish is that of al-‘Abbas ibn ‘Abd al-Muttalib” were spoken during the Farewell Pilgrimage in 10 AH, not at the time of the conquest of Makkah.

Therefore it is not valid to conclude from this report that al-‘Abbaas was dealing in riba with the people of Makkah because of its being “dar al-harb”, because Makkah became “dar al-Islam” when it was conquered, which happened more than two years before the Prophet (blessings and peace of Allah be upon him) uttered these words.

i. We have no definitive evidence to suggest that al-‘Abbaas (may Allah be pleased with him) was aware of the prohibition on riba and persisted in dealing in it after he became aware of the prohibition.

Moreover, the connection between riba and jaahiliyyah in this hadith – “The riba of the Jaahiliyyah is abolished” – may be understood as referring to the type of riba that al-‘Abbaas dealt in before he became Muslim, because jaahiliyyah is what comes before Islam. Based on that, what is meant in this hadith is that al-‘Abbaas 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 (blessings and peace of Allah be upon him) forbade him to take those returns. “*But if you repent, you may have your principal [capital]*” [al-Baqarah 2:279]. And he announced that this kind of riba was abolished.

An-Nawawi (may Allah have mercy on him) said:

The response to that is that people owed al-‘Abbaas money on the basis of his dealings in riba during the Jaahiliyyah, before he became Muslim, and it is enough to understand the hadith on that basis. There is no evidence at all to suggest that after he became Muslim he continued to deal in riba. Even if we assume that he continued to do that, because he may have been unaware of the prohibition on riba, the Prophet (blessings and peace of Allah be upon him) wanted to establish that principle and affirm it on that day. End quote. *Al-Majmoo‘* (10/488).

5.

Another of their arguments is their view that Abu Bakr as-Siddeeq (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: *“Alif, Lam, Meem. The Byzantines have been defeated In the nearest land. But they, after their defeat, will overcome Within three to nine years. To Allah belongs the command before and after. And that day the believers will rejoice In the victory of Allah . He gives victory to whom He wills, and He is the Exalted in Might, the Merciful” [ar-Room 30:1-4]*. 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 (blessings and peace of Allah be upon him) about that. The Prophet (blessings and peace of Allah be upon him) said: “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 (blessings and peace of Allah be upon him) 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.

It is obvious that Makkah at that time was not yet “dar harb”, because that took place before jihad was prescribed.

The response to this is like the response to the story of the Prophet (blessings and peace of Allah be upon him) wrestling with Rukaanah. The majority of scholars think that this has been abrogated, because it took place before the prohibition on gambling was revealed. Some 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 Shaykh al-Islam Ibn Taymiyah and his student Ibn al-Qayyim.

Ibn al-Qayyim (may Allah have mercy on him) said:

The scholars differed with regard to the soundness of this hadith and whether it is abrogated. There are two views:

Some of them claimed that it was abrogated, because the Prophet (blessings and peace of Allah be upon him) forbade any transaction based on ambiguity or gambling. They said: this hadith indicates that, in the words “that was before the prohibition on betting.”

This is the view of the companions of Maalik, ash-Shaafa'i and Ahmad.

Others claimed that it is still valid and has not been abrogated, and that those who claimed that it is abrogated have no proof to base their argument on. They said: Bets and wagers are not forbidden completely; rather what is forbidden is wagers for wrong reasons in which there is no benefit for the religion. As for wagers that are aimed at supporting Islam and offering proof and evidence of its truth – as in the case of the wager of Abu Bakr – that is most appropriate, and it is more appropriate for that to be permissible rather than betting on archery contests and horse and camel races. This is the view of the companions of Abu Haneefah and of Shaykh al-Islam Ibn Taymiyah. End quote.

Al-Faroosiyyah (p. 96-98).

He (may Allah have mercy on him) said:

The words "that was before the prohibition on betting" are the words of one of the narrators, not the words of Abu Bakr or of the Prophet (blessings and peace of Allah be upon him). End quote. *Al-Faroosiyyah* (p. 95).

6.

One of their arguments for it being permissible to engage in invalid transactions – including riba – in "diyar al-harb" is because the disbelievers' wealth is permissible, therefore the Muslim may take it, provided there are no acts of treachery, because treachery is haraam; if the Muslims defeat them and capture their land, they will take their wealth as booty.

The response to this is that their saying that the disbelievers' wealth is permissible is not correct, because we are talking about a Muslim who enters their land and resides among them after they have granted him security [like a visa]. In return for that, they should be safe from him too, so he has no right to transgress against them or their wealth. Therefore their wealth is not permissible for him.

Imam ash-Shaafa'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* (4/263).

He also said (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.

An-Nawawi (may Allah have mercy on him) said:

As for regarding their wealth as permissible if he enters their land with a guarantee of safety, that is not allowed, and the same applies to taking it on the basis of an invalid transaction. Even if we assume that the guarantee of safety is not there, citing this as evidence is still not valid, because if a harbi enters “dar al-Islam”, his wealth may be permissible to take without any deal, but it cannot be permissible on the basis of an invalid deal. Moreover, not everything that is permissible without a deal can be regarded as permissible on the basis of an invalid deal, such as intimacy that may be permissible with women captured in war [without any contract], but cannot be permissible on the basis of an invalid contract. *Al-Majmoo‘* (10/487-488).

From the above, it becomes clear that those who regard it as permissible to engage in invalid transactions – including riba – with the disbelievers in “dar al-harb” have no valid evidence. The texts which speak of the prohibition on riba are general in meaning, and no one should make any exception from that prohibition with regard to any place, time or individuals.

We ask Allah, may He be exalted, to guide the Muslims back to sound understanding and practice

of their religion.

And Allah knows best.