224816 - Ruling on agreeing to delay paying back a loan until the lender gets married, for example

the question

Is it permissible for the lender and the debtor to agree that the time for paying back the loan will be when the lender wants to get married, or move to another city, or must the time for paying it back be fixed?

Summary of answer

The loan is valid in the manner described in the question, and both parties must commit to the stipulation mentioned.

Detailed answer

Praise be to Allah.

Firstly:

There is a difference between a loan (qard) and a debt (dayn); the word dayn (debt) is more general in meaning, and includes loans and other things, but usually nowadays when people say “debt” they mean “loan.”

Based on that, our answer will speak specifically about loans, so that we will not have to go into a lot of detail that is not relevant to the question.

Secondly:

The scholars differed regarding the case when the lender and borrower agree to set a time for repayment: is the lender obliged to commit to that stipulation (and not ask for the loan to be paid back earlier than that), or not?

The correct view is that the lender is obliged to commit to this stipulation, and it is not permissible for him to demand that the loan be repaid before the agreed-upon time.

This is the view of the Malikis and the Zahiris (literalists), and it is the view favoured by Shaykh al-Islam Ibn Taymiyah and his student Ibn al-Qayyim (may Allah have mercy on them).

Al-Bahuti al-Hanbali (may Allah have mercy on him) said, after mentioning the view of the Hanbalis that the creditor does not have to agree to payment being made in the future: The shaykh [i.e., Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him)] favoured the view that it is valid to agree that the borrower will pay at some specific time in the future, and the creditor is bound by that time [and cannot ask for repayment before that time comes], whether the debt is a loan or otherwise, such as the price of an item purchased on credit, or the value of something that he damaged, and the like, because of the general meaning of the hadith, "The believers are bound by their conditions." End quote from *Kashshaf al-Qina`* (3/316).

Shaykh Ibn `Ulaysh al-Maliki (may Allah have mercy on him) said:

If he borrows money to be paid back at a specific time, he is bound by that, and there is no difference of opinion in the madhhab.

End quote from *Fat-h al-`Ali al-Malik fil-Fatwa `ala Madhhab al-Imam Malik* (1/363).

This is the view favoured by Imam al-Bukhari (may Allah have mercy on him) in his *Sahih*, as he quoted as evidence for that some reports from the Prophet (blessings and peace of Allah be upon him), where he (may Allah have mercy on him) said: *Chapter: If he gives him a loan to be paid back at a specific time, or he sold something to him and said: Pay me later at a specific time*. Ibn `Umar said regarding a loan to be paid at a specific time in the future: There is nothing wrong with that… `Ata' and `Amr ibn Dinar said: The borrower is obliged to pay the loan at the agreed-upon time [and the lender cannot ask him to pay him back before then]. Al-Layth said: Ja`far ibn Rabi`ah told me, from `Abd ar-Rahman ibn Hormuz, from Abu Hurayrah (may Allah be pleased with him), from the Messenger of Allah (blessings and peace of Allah be upon him) that he mentioned an Israelite man who asked one of the Israelite prophets to lend him money, and he

gave it to him, to be paid back at a specific time – and he quoted the hadith. End quote.

Shaykh Muhammad ibn `Uthaymin (may Allah have mercy on him) said:

The correct view is that if the borrower asks the lender to pay him back some time in the future and the lender agreed to that, then that time is fixed and is binding, and it is not permissible for the lender to ask the borrower to pay him back until that time comes.

This is the view favoured by Shaykh al-Islam, because this does not contradict the purpose of the contract; rather it is essential to achieve the purpose of the contract, because the purpose of lending is to help and show kindness, and if you give him a time in the future to pay it back, this is part of kindness and it is more helpful to the borrower to let him pay back sometime in the future.

Moreover, Allah, may He be Exalted, says: { O you who have believed, fulfill [all] contracts} [al-Ma'idah 5:1], and this is a contract in which it is stipulated that the loan must be paid back at some time in the future. Therefore it must be fulfilled, because Allah's command to fulfil all contracts includes adhering to the terms of the contract and the way in which it is to be carried out; this refers to the conditions stipulated in the contract. Allah, may He be Exalted, says: {and fulfil [all] covenants, for [every] covenant will be asked about} [al-Isra' 17:34]. The lender who agrees that the borrower should pay him at a specific time in the future has implicitly promised not to demand payment until after that time has come, so this is a covenant that he will be asked about before Allah.

Moreover, the Prophet (blessings and peace of Allah be upon him) said: "Every condition that is not in the Book of Allah is invalid." Thus it is known that the condition that is not contrary to the Book of Allah is not invalid…

That is because asking for payment when the time of payment has not yet come is breaking the promise, and breaking promises is one of the characteristics of the hypocrites…

And because that may be a cause of great hardship to the borrower.

For example, this man loaned me fifty thousand to buy a car so that I can make use of it, so I

bought the car on the basis that payment of the loan would be deferred for a year.

According to the author's view, the lender has the right to ask me to pay now, and to say: Pay me, and he can force me to sell the car in order to pay him, and that will cause a great deal of hardship.... That is clearly abhorrent according to reason, custom and decency, let alone from an Islamic point of view.

Thus the evidence from the Qur'an and Sunnah, and the concept of the loan, are all agreed that specifying a time in the future for repayment of the loan is permissible, and that it is binding (on both parties) and is essential.

End quote from *Al-Muhalla* (7/438); *Jami` al-Masa'il*, Vol. 2 (p. 315); *Ighathat al-Lahfan* (2/15).

Thirdly:

As for stipulating that the time for payment should be unspecified, as mentioned in the question, until the lender wants to get married or move to another city, the Malikis are of the view that this is also permissible.

Undoubtedly charitable contracts, such as gifts and loans, may be flexible in ways that other contracts cannot, because the aim is to help people, and the loan that is to be paid at the time mentioned in the question, until the lender returns from a journey or gets married and so on, is very kind and helpful, and people's need may dictate that, and that is a general practice among them.

An-Nafrawi (may Allah have mercy on him) said: Any discussion on exemption of loans from the stipulations required in business transactions, even though it is a kind of transaction: The loan, which is lending, is a minor category that comes under the main heading of business transactions... How a loan differs from a business transaction is in the fact that the business transaction is an exchange, and so is the loan, but the scholars said that a loan is different from a business transaction, because they allowed in a loan what is not allowed in a business transaction, which is lending something that is unknown, such as a bucketful of something that is to be

returned in a similar way, even though it is not known what is in it, and carrying out the deal on that basis, because ambiguity in business transactions is not permissible.

And it is permissible for the time of repayment to be unknown, in contrast to the business transaction.

End quote from *Al-Fawakih ad-Dawani* (2/89).

In *Hashiyat al-`Adawi* it says: It is permissible to lend something that is unknown, such as a bucketful of something to be returned in the same quantity, without knowing what is in the bucket, and without knowing when it will be returned.

End quote from *Hashiyat al-`Adawi `ala Kifayat at-Talib* (2/163).

See also: *Tahdhib al-Mudawwanah* (3/276); *Adh-Dhakhirah* (9/221); and *Mawahib al-Jalil* (5/101).