408752 - Ruling on borrowing money from someone and appointing him as a proxy to transfer it in return for a fee

the question

I borrowed one thousand dollars from someone, and on the same day I appointed him as a proxy to transfer it (on my behalf) to another country, in return for a fee for transferring it, not as an extra payment for the loan, on the basis that I would pay back the amount I had borrowed from him one month after the date of the loan. Is it valid to borrow the money and appoint him to transfer it in return for a fee before I pay him back?

Detailed answer

Praise be to Allah.

It is not permissible to combine a loan contract with a deal [of hiring] in return for payment, such as appointing the lender as a proxy in return for payment, if that is by way of stipulating a condition, such as if he said: I will not give you a loan unless you hire me to do some work for you, or unless I act as your proxy in return for a fee, or unless I transfer the money for you in return for a fee, or if he will not give you a loan unless you hire him to transfer it for you. That is because of the report narrated by at-Tirmidhi (1234), Abu Dawud (3504) and an-Nasa'i (4611) from 'Amr ibn Shu'ayb, from his father, from his grandfather, who said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "It is not permissible to arrange a loan combined with a sale." Classed as sahih by at-Tirmidhi and al-Albani.

Selling [or buying] also includes all other contracts which involve the exchange of two things.

It says in a statement of the Fiqh Council regarding margins: The broker's stipulation that the customer should do business through him leads to combining the loan with a business transaction (brokerage), which is similar to combining a loan and a sale, which is prohibited according to

Islamic teaching, based on the words of the Messenger (blessings and peace of Allah be upon him): “It is not permissible to arrange a loan combined with a sale.” Narrated by Abu Dawud (3/384), and by at-Tirmidhi (3/526), who said: It is a sahih hasan hadith.

In that way he will have benefitted from giving a loan, and the jurists are unanimously agreed that any loan that brings a benefit comes under the heading of riba, which is haram. End quote.

But if that is done without prior stipulation, meaning that you borrowed money, then you needed to transfer it, so you asked him to do that and you paid him a fee at the going rate, without paying extra because he had done you a favour, then there is nothing wrong with it. But if it did involve paying something extra, then it is riba, because it is a loan that led to a benefit.

But if you transfer it yourself, or you appoint someone else to do that, that will be better.

And Allah knows best.