

268658 - Ruling on currency exchange when it is not possible to make the exchange hand-to-hand because of the war situation

the question

With regard to money transfer and *riba an-nasee'ah* [when the amount of debt is increased if the debtor is unable to pay off the debt at the appointed time and requests extra time in which to pay it off], I know the ruling on that from the fatwas, but what if we cannot find any other way, because the situation in Syria is bad? Therefore we transfer money to our family as follows: we get in touch with someone who does money transfers, and we agree on an exchange rate – for example 140 lira for every riyal, which is reasonable according to the market rate. And we tell him that I will deposit a sum of money in his bank account, such as 1000 riyals, then I sent him a picture of the deposit slip so that he can be sure. Then through some people who are working for him in Syria he contacts the exchange office inside Syria, and he gives them the money in Syrian currency, e.g., 140,000 liras. They do an internal transfer, then they send me a picture of the transfer so that I can be sure that it will reach my family, through the transfer number. Then I tell my family to go to the transfer office and collect the money, using the picture of the transfer slip and the transfer number.

My question is: This process takes time. For example, it begins by putting the money in that person's account at 1 o'clock, then he gets in touch with his helpers and does an internal transfer that may happen at 2 o'clock, then he sends me the image (of the transfer slip) straightaway, then my family may collect the money from the office two hours later, or even the next day, i.e., when I tell them the transfer number. It may be difficult for the messages to reach them because of power outages. Is this form of internal transfer deemed to be the same as a hand-to-hand exchange? Does this one-hour interval between my sending it and the internal transfer happening affect the validity of this transaction? We do not intend to increase or change the price; rather this is the easiest available method.

Detailed answer

Firstly:

When exchanging one currency for another, it is stipulated that the exchange take place in one sitting, because currencies come under the same rulings as gold and silver. Muslim (1587) narrated that ‘Ubaadah ibn as-Saamit (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt, like for like, same for same, hand to hand. But if these commodities differ, then sell as you like, as long as it is hand to hand.”

The exchange may be done in a real, literal sense or it may be deemed to be such.

The real, literal exchange is when the exchange takes place hand-to-hand in the same sitting.

An exchange that is deemed to be real takes various forms, such as a certified bank draft or receipt of a transfer from the bank.

If you can transfer money directly to your family through the bank, by giving the bank riyals and the bank gives you a receipt for transfer, stating how much the family will receive in liras, then your family goes to the bank in your country to collect the liras, there is nothing wrong with that, because the way in which it is done is deemed to be the same as an exchange on the spot.

Secondly:

If it is not possible to transfer money directly to your family, and you have to use a middleman – as stated in the question – then the matter is subject to further discussion.

1. If the money will be received by this person in liras, i.e., you transfer the riyals to him through the bank and you get a receipt for this transfer, then he receives it in liras, then he transfers money internally to your family in liras, there is nothing wrong with that, and the exchange which is deemed to have taken place between you and the bank, as noted above, has been done properly. You can agree with this person on a fee in return for this work, because his work is like doing something on your behalf in return for a fee.

2. If the money will reach this person in riyals or dollars, then he will exchange it himself for liras and then transfer it to your family through the transfer office, this process is not permissible, because there is no hand-to-hand exchange between you and this person.

In this case, the transaction between you and him is an exchange, and it is an unlawful exchange, because there is no hand-to-hand exchange in a real sense or in a manner that may be deemed to be the same as a real exchange.

The way out of this dilemma is as follows:

Each of you [yourself and the agent who is transferring the money for you] should have a proxy in the other country, then you should agree to meet at a certain time when you will give him the money that you want to transfer – or you can transfer it to his account – and at the same time, the proxy of the agent should hand it over to your proxy in the other currency before you and the agent part.

It says in *Kashshaaf al-Qinaa'*: If the two people who want to exchange money each appoint a proxy, and the two proxies exchange the money before the two who appointed them separate, then this transaction is valid, because the proxy's receipt of the money is like that of the one who appointed him.

Thirdly:

If it is not possible to do that, or it is too difficult, then we hope in this case that there is leniency with regard to the condition of the exchange taking place in the same sitting, because of necessity or urgent need due to the war situation in Syria, the difficulty of transferring money to that country, and the complicated measures involved in financial dealings. But it is essential that the two parties agree on the exchange rate and the amount that will be received in the other currency, so as to avoid ambiguity regarding the exchange rate.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said: With regard to giving him Saudi riyals here, working out the value in dollars, and drawing up a contract on that basis, then transferring this amount in dollars to the other country, this is a matter concerning which there

are some reservations, because it is an exchange of currency that is not done hand-to-hand on the spot.

But I say, if Allah wills, and I ask Allah to forgive me if I am wrong: if it is necessary to do that and there is no way to send the money to the country of the one who wants to send the transfer except this way, then I hope that there will be nothing wrong with that, so as to make things easier for the Muslims, and because there is no definitive proof to disallow that.

End quote from Fataawa Noor 'ala ad-Darb (233/1).

He also said in Liqaa' al-Baab al-Maftooh (104/20): Because this is a case of necessity, we say that this is permissible, because I have heard that it is not possible to do this except through this method. So if that is truly the case that it cannot be done except through this method, then it is a case of necessity, and there is nothing wrong with it. End quote.

And Allah knows best.