

Giving a Loan to a Person About Whom it is Known that They will Return it with some Addition

Darulifta Ahlesunnat (Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following: There is a person who has the habit of giving some extra money when repaying a loan. In other words, he doesn't take an interest-based loan, but whenever he does take a loan, he voluntarily repays it with some extra. So, is it permissible to give such a person a loan and take the extra money from them, despite knowing that they will give some extra money?

Answer

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

If the debtor repays more than the debt, and it was not made a condition that they must repay more, it will not be declared riba according to sharī'ah. Taking this extra amount is permissible and halal. Not only is it permissible to give this extra, but it is also a sunnah and good character. Therefore, if one is known for doing this, they are habitual of practicing a sunnah, they possess good character, and this is a sign that they are generous. The jurist declared that the debtor being generous is evidence that this extra amount is not riba. Hence, it will remain permissible to give such a person a loan and take the unconditioned extra amount from them. However, this habit of giving and taking extra must not reach the level of being an implied condition, otherwise it will become haram. Also, keep in mind that even if a generous person gives back more out of their generosity, it is still condemned to give them a loan with the intention that they will return more, because keeping an eye on someone's wealth is disliked in sharī'ah.

The details and proof are mentioned below:

If giving extra at the time of repaying the debt was not made a condition in the transaction in any way, it is not riba according to sharī'ah, and it is permissible to give and take. It is stated in al-Zakhirah:

واذا أرجع في بدل القرض لو لم يكن الرجحان مشروطا في القرض لا بأس به

(Al-Zakhirah al-Burhaniyah, Vol. 11, p. 109, Publ. Dar al-Kutub al-'Ilmiyah)

It is stated in Hashiyah Sindhi 'Ala Ibn Majah and Mirqat al-Mafateeh (the words are of Mirqat):

من استقرض شيئا فرد أحسن أو أكثر منه من غير شرطه كان محسنا ويحل ذلك للمقرض --- وليس هو من قرض جر منفعة؛ لأن المنهي عنه ما كان مشروطا في عقد القرض

(Mirqat al-Mafateeh, Vol. 5, p. 1954, Publ. Dar al-Fikr)

It is stated in Bahar-e-Sharī'at:

واپسی قرض میں اُس چیز کی مثل دینی ہوگی جو لی ہے نہ اُس سے بہتر نہ کمتر ہاں اگر بہتر ادا کرتا ہے اور اس کی شرط نہ تھی تو جائز ہے دائن اُس کو لے سکتا ہے۔ یوں جتنا لیا ہے ادا کے وقت اُس سے زیادہ دیتا ہے مگر اس کی شرط نہ تھی یہ بھی جائز ہے۔

Translation: It is necessary to repay the loan with the 'Misl' (like) of that which was borrowed; neither better nor worse. But if one repays with something better without it being made a condition, it is permissible, and the creditor may accept it. Similarly, if they (the debtor) are repaying more than they borrowed, and this was not conditioned before, that too is permissible. (Bahar-e-Shari'at, Vol. 2, Pt. 11, p. 759, Publ. Maktaba-Tul-Madinah, Karachi)

Giving back extra is proven from the sayings and actions of the Noble Rasool ﷺ

It is stated in Sahih al-Bukhari:

عن جابر بن عبد الله قال: أتيت النبي صلى الله عليه وسلم --- وكان لي عليه دين، فقضاني وزادني

Translation: It is narrated that Jabir bin 'Abdullah رضي الله تعالى عنه said: I came to the Prophet ﷺ and He owed me a debt. So, he repaid the debt and gave me some extra. (Sahih al-Bukhari, Vol. 3, p. 117, Publ. Al-Matba'a al-Kubra al-Ameeriyah, Bulaq, Egypt)

It is stated in Sahih Muslim:

عن أبي هريرة قال: استقرض رسول الله صلى الله عليه وسلم سنافاً عطى سنافاً فوقه وقال: خياركم محاسنكم قضاء

Translation: It is narrated that Abu Hurairah رضي الله تعالى عنه said: The Messenger of Allah ﷺ took a two-toothed (young) camel on loan. When He repaid it, he gave back a four-toothed (more mature in age) camel and said: The best amongst you is the best in repaying the debt. (Sahih al-Muslim, Vol. 5, p. 55, Publ. Dar al-Taba'ah al-'Amirah, Turkey)

Similarly, the Prophet ﷺ encouraged this praiseworthy act and regarded those who do this among the best of Muslims, as it is stated in Sunan Lil-Nasa'i with the words:

فان خير المسلمين احسنهم قضاء

(Vol. 6, p. 61)

He ﷺ also regarded them as the best of Allah's bondsmen, as stated in Al-Sunan al-Kubra Lil-Bayhaqi:

فان خيار عباد الله احسنهم قضاء

(Vol. 5, p. 578)

He also regarded them as the best amongst the people, as stated in Sunan Ibn Majah:

فان خير الناس احسنهم قضاء

(Vol. 2, p. 767)

In Muwatta Imam Malik (narrated by Imam Muhammad), it is stated after the above statement:

قال محمد: وبقول ابن عمر نأخذ لا بأس بذلك، اذا كان من غير شرط اشتراط عليه وهو قول أبي حنيفة رحمه الله

Translation: Imam Muhammad said: We accept the statement of Ibn 'Umar (i.e., we declare this extra permissible) given that it wasn't made a condition. This is also the opinion of Imam Abu Hanifah رحمه الله. (Muwatta Imam Malik, p. 293, Publ. Al-Maktabah al-'Ilmiyah)

It is apparent from the actions of the Messenger of Allah ﷺ that the words 'احسن قضا' mean 'giving more'. Allamah 'Aini رحمه الله تعالى عليه writes:

لأن القضاء مع زيادة هو حسن القضاء

Translation: Because repaying a loan with some extra is regarded as repaying in a good manner. ('Umdah al-Qari, Vol. 12, p. 232, Publ. Dar Ihya' al-Turas al-'Arabiyy)

The scholars have declared this a sunnah, good character, a hidden sadaqah, and the one who does this a person who is enabled by Allah. It is stated in Hashiyah Sindhi 'Ala Ibn Majah, and Mulla 'Ali Qari رحمه الله تعالى states in Mirqat al-Mafateeh (the text is from Mirqat):

الحديث دليل على أن رد الأجل في القرض أوفى الدين سنة ومكارم الأخلاق

Translation: The hadith is proof that repaying the loan or debt with something better is a sunnah and a good character. (Mirqat al-Mafateeh, Vol. 5, p. 1954, Publ. Dar al-Fikr)

Allamah Munawi رحمه الله تعالى wrote in Faid al-Qadeer:

قال بعض العارفين: فإذا كان لأحد عندك دين وقضيته فأحسن القضاء وزده في الكيل والوزن وأرجح تكن بذلك من خيار العباد وهو الكرم الخفي اللاحق بصدقة السر

Translation: Some 'Arifeen (gnostic) have said: If you are indebted to someone and you are repaying the debt, repay it in the best manner and give extra in measure and weight. Through this, you will become among the best of people. This is a hidden mercy for the one who gives hidden charity. (Faid al-Qadeer, Vol. 3, p. 480, Publ. Al-Maktabah al-Tijariyah al-Kubra, Egypt)

It is stated in Sharh Zurqani 'Ala al-Muwatta:

(فإن خيار الناس أحسنهم قضاء) للدين، قال البوني: أظنه أراد أن الله يوفق لهذا خيار الناس

Translation: The best of people are the ones who repay the debt in the best manner. Al-Bawni said: I assume that He ﷺ meant that good people are enabled to do this.

(Sharh al-Zurqani 'Ala al-Muwatta, Vol. 3, p. 498, Publ. Al-Maktabah al-Saqafah al-Deeniyah, Cairo) If the debtor is known for his generosity, this serves as evidence that the extra he is giving is not in exchange for the loan. For example, if the debtor is known for his generosity and he gives the creditor a gift, the jurist declared that this gift was not given due to the debt, and being known for his generosity is the evidence. Thus, it is stated in al-Muheet Lil-Burhani, al-Hindiyyah, al-Bahr al-Ra'iq, al-Tatarkhaniyyah, and Khulasah with reference to Qadi Khan:

في فتاوى قاضي الامام: والسبب الظاهر قائم مقام العلم وهو ان يكون بينهما مهادة قبل القرض لقربة أو صداقة أو غيرها إذا كان المهدي رجلا معروفا بالجود والسخاوة فإنه يقوم مقام العلم أنه أهدي اليه لا لاجل الدين

Translation: It is mentioned in the Fatawa of Qadi Imam: The apparent reason stands in place of certainty. (In this case) This means that the creditor and debtor would give each other gifts from before due to their relationship, friendship, or any other reason; for example, the one who is giving the gift is known for his generosity. This generosity stands in place of certainty, i.e., it proves that the gift he gave was not because of the debt. (Khulasah al-Fatawa, Vol. 2, p. 352, Publ. Quetta)

وَاللَّهُ أَعْلَمُ عَزَّ وَجَلَّ وَرَسُولُهُ أَعْلَمُ صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ

(Allah Almighty knows best and His Messenger ﷺ knows best.)

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