

Reality of and Ruling on Student loans in the United States of America

Prepared by
Dr. Main Khalid Al-Qudah
Member of AMJA fatwa committee

Part 1

Introduction

All perfect praise be to Allah, Lord of the worlds, and peace and blessings of Allah be upon our Prophet Muhammad, his family, and all his Companions.

As the signs of the Islamic Awakening increase among the Muslim community living in the United States, questions are raised about the ruling on the student loans for the purpose of completing the university study in the States. They on one hand generally ask these questions due to the high tuition fees required although these loans, or some of them, are Riba-based. On the other hand, all wise people agree on the need for university education, particularly for those living in a country, like the United States, which occupies the first position in scientific and industrial advancement.

On the light of the aforesaid, questions are initially raised about the ruling on these loans, and secondly about their ruling if there is no other alternative and the student's graduation is contingent on taking them. Also, if the fatwa of permitting the loans was given, would they be unconditionally permissible even for postgraduate students? Or would it be enough for the student to obtain the first university degree which is necessarily needed? All these questions and others called Amja (Assembly of the Muslim Jurists of America) to pay special attention to this issue being one of the new incidents of Fiqh and connected with thousands of Muslims living outside the Muslim lands. This paper is a modest attempt to shed light on the reality of these loans in the USA and explain the rule of the Islamic Sharee'ah on them, Allah is the Cherisher of Success and guides to the straight path!



Chapter One

Statistics and data on the new incident

General statistics:

Statistics vary regarding the number of the Muslims living in the US ¹ and they are estimates more than statistics issued by official authorities. Most of them show that the number of Muslims ranges from 6 to 7 million with 6% increase every year. We expect the number will reach 16 million Muslims by 2014 – Allah willing. 65% of the total Muslim populations are under forty years, whereas 1.5 million at least are over eighteen. 50% of the Muslims in the USA finished their university education². Other resources say that Muslim university graduates constitute 67% but did not mention whether they got their education from the USA or from other countries. The numbers stated above, despite their simplicity, indicate that the Muslim sector which is the target of the "student loans" topic reaches one million people at the minimum – approximately one third of the proportion in which ages of Muslims are above eighteen.

If we included all Muslims under the age of forty (probably they wish to continue their education and obtain higher degrees), the number would become 4,000,000 at least. Based on the same calculations, Muslims interested in the university education will hit 10,000,000 people by 2014. By adding the number of Muslims living outside the Muslim world, the total number will be ten millions. This sufficiently proves that university education concerns a wide sector and large number of Muslims, not a rare or individual case which needs an individual fatwa.

Second: Demands for the loans

As for demands for the loans by university and college students in the US in general, the following numbers ³ give a clear picture of their interest in obtaining foreign financial support to continue their studies.

1. In 2004, 62.4% of graduates from public universities had student loans.
2. During the past decade, the average debt of the graduates reached 19200\$, i.e. 108% increase more than the previous decade in which the graduate's average debt did not exceed 9250\$.
3. Students' guardians borrowed loans for their children's education. 15.3% of the guardians borrowed from the Federal Loan Program in 2004, and the family's average loan was 17709\$.
4. More than 75% of the university students in the first year started their study year 2004 carrying credit cards.
5. Private (non-federal) student loans make high interest rates and students do not resort to them unless they are unable to get federal student loans. Nevertheless, private student loans reached in (2005-2006) 25% of the total student loans in the US ⁴.
6. Study of the National Center for Education Statistics shows ⁵ that student loans are not given to full-time students only, but 48% of the working students took out student loans for the year (1990-2000), and the average loan borrowing per student was 3000\$, and 40% of the working students obtained study grants about 1500\$ per student.
7. Therefore, companies offered their employees financial aid for study purposes. The former study shows that 78% of the major American companies offered financial aid for their employees in 2005.

The statistics above reports a very important fact: the majority of students do not rely on self-support to continue the university study and that they resort to other resources, including borrowing loans, to cover the fees of their study.

Third: Tuition Fees

It is worth mentioning here to cite some numbers which show the university tuition fees in the US. Tuition fees in the US vary widely due to difference in the academic levels of the universities. Similarly, the total fees a student pays for one study year vary according to his living standard and the state he lives in. Whereas the tuition fees, not the total cost, in 2008 for Bates College hit 43950\$, the highest rate reported by statistics ⁶, the fees did not exceed 7706\$ in Houston University ⁷ in the same year. According to a study conducted by Houston

University, the total cost per student is approx. 23242\$ distributed as follows:

- 7706\$ tuition fees
- 8964\$ accommodation + food
- 1100\$ books + study services
- 2448\$ transportation fees
- 3024\$ additional fees
- 23242\$ total cost

Supposing that the student is treated like those living in the state of Texas and not coming from another state or being an international student, the average amount the student pays monthly is 2000\$ considering the study year is nine months at the minimum. The reason for the above supposition is that students coming from other states pay higher tuition fees than Texan residents, and they massively increase for international students, perhaps double or more. It should be noted that tuition fees go up higher than the normal rise in prices and living expenses. Statistics reveal that tuition fees in the state universities increased by 40% in the last five years and by 57% in consideration of prices inflation and loss of purchasing power of money⁸. This dramatic rise in tuition fees, off course, along with other reasons, deprived 48% of the qualified students of enrolling in the universities that grant first university degrees and 22% of entering the community colleges⁹.

This is the case and university study is very expensive –a fact that forces most of the students to resort to financial support. Therefore, it becomes necessary to talk about the available resources which fund the university study in the US.



Chapter Two

Funding resources for the university study

University of Houston will be used as a sample in this study, taking into account that resources that fund study at the American universities are, if not identical, almost the same, particularly when the funding resource is managed by the state or the federal government. Thus, conducting the study on a single university is enough to give a clear picture for the conditions in the rest of the universities. According to the resources of the University of Houston ¹⁰, the resources are as follows:

First Topic: scholarships

Scholarships in the University vary to include:

First: scholarships funded by the University To obtain this scholarship, a student must be a graduate of a high school recognized by the University, attend the university on a full-time basis, be an American citizen or have a permanent residence or at least a legal temporary resident. In addition, the academic load should not be less than 12 credit hours, and the student's grade point average should be at least 3 of 4. The student's portfolio should be free from violations, felonies and crimes. Once these conditions are met, the student deserves a scholarship for four years, or five years should the specialty require five study years.

There are other scholarships offered by the University's faculties and funded by the faculty itself, not by the administration of the university. These scholarships have the same requirements needed for the university-funded scholarships in terms of considering the GPA of the student's secondary education. Moreover, the student undergoes general tests of academic talents, resulting into selection of the students gaining top marks. All these terms apply to the students accepted in The University of Houston and the students coming from other universities.

Second: Scholarships for foreign students

If the student living outside the state of Texas won a competitive scholarship from the faculty he is studying at in the University of Houston estimated at 1000\$ every year based on his academic excellence, he would be eligible to another scholarship which exempts him from the enormous fees that foreign students usually pay. In such a case, the student would be required to pay only the fees that Texan

students pay. This, in fact, spares the student thousands of dollars during his four-year study.

Second Topic: Grants

Grants differ from scholarships in the fact that grants are offered on the basis of the student's financial conditions, i.e. they are offered to needy students, whereas scholarships depend on the student's academic achievement and excellence. The University of Houston offers several grants that are funded by the federal government, by the state of Texas or by individuals and private institutions. These grants include:

First: the federal Pell Grants

This grant is awarded to the first university degree students, not postgraduate students, and the student is not required to be an American national, but it is enough that he is a legal resident. The grant starts at 400\$ yearly and the maximum amount changes every year.

Second: the federal FSEOG Grant

It has the same conditions stipulated for Pell Grants and starts from 100\$ to 4000\$ every year based on the annual income of the student's family as well as on the policy of the University of Houston.

Third: the local LEAP Grant

This grant is exclusive to the state of Texas, and the applicant must be an American national and his study load is not less than 12 hours per semester. This grant is offered on the first come, first served basis, in addition to the student's financial need.

Fourth: The University of Houston Grant

The grant ranges from 400\$ to 2200\$ offered to bachelor's students. The resource did not mention how necessary the condition of being an American national is in order to receive the grant.

Fifth: The University of Houston Grant for postgraduate students

It is similar to the above grant, but the maximum amount reaches 2000\$ yearly.

Sixth: the federal ACG and SMART Grants

In addition to being an American national, the applicant must be accepted in Pell Grants program mentioned above, be a fulltime student, and his achievement and marks are not less than a certain point.

Seventh: The University of Houston Supplementary Grant

The grant is awarded to fulltime and needy students at 500\$ maximum every year.

Eighth: the local TEPG Grant

The state of Texas funds and administers this grant which is equally awarded to all undergraduate and postgraduate students from Texas or other states. Students applied for this grant receive cash money.

Ninth: Texas local Grant

Texas local Grant is like TEPG, yet the former pays the student's fees instead of giving him cash money.

Tenth: the federal Robert C. Byrad Grant

This grant is funded by the federal government and administered by the State. It is allocated for top students who did not complete their university study directly after the secondary schools. For the student to be eligible for this grant, he has to study on a fulltime basis and keep his GPA not less than 2 out of 4.

Nonetheless, a small number of international students receive scholarships and grants. The IIE (Institute of International Education) study ¹¹ found that 7% of international undergraduate students received funding from the school and 5% from private organizations.

Third Subject: Federal Labor Program

The program allows the student to work part-time in or outside the university, and this work is somewhat related to the university study. The work helps the student get some money to cover the costs of his study and gain experience to contribute to his professional future after graduation. No student is allowed to work over 20 hours a week, and he charges for one hour a rate equal or less than the minimum wages specified by the federal government.

Fourth Subject: Summer Aid Program

Students who deserved financial aid before summer season and did not use it benefit from this program on condition that they should register at least one half of the study load.

Fifth Subject: Illegal Immigrants Aid Program

Some illegal immigrant students in the US deserve financial aid if they have met certain conditions, such as staying in the state of Texas for a certain



period of time without absence and not obtaining the registration number of legal arrivals. The State passed this law in 2001 to allow students satisfying the conditions to benefit from the scholarships awarded by the State government only, not those of the federal government.

Sixth: Student Loans

The University of Houston offers a variety of student loans, forming nine types that vary in terms of the amount of the sum offered, time, the funding body, and being Riba-based. Such a variety shows that the loans are not different from those offered by other universities, and hence, knowing the details of these loans provides a clear idea about the student loans throughout the US.

In studies similar to this one, the time of the loan, the amount of usury involved, and other details are not so important as knowing how usurious the loans are and how sufficient they are to fulfill the student's needs. Based on the previous criterion, student loans in America are divided into two main categories ¹²:

1. Loans subsidized by the federal government which pays their interests. The student takes these loans according to his financial need and inability to meet the university liabilities. He shall be exempted from repaying the debt

as long as he is in the school and keeping the minimum credit hours. He is given a 6-month respite during which he is required to pay the whole sum. When the student fails, the loan becomes Riba-based starting from the time of giving it out, and the students incur the interests and costs accumulated.

- Loans unsubsidized by the government. These loans are given to the students who want them regardless their financial need and low income. A student is required to repay the debt and its interests in full although he is exempted from repayment before graduation.

As for how sufficient these loans are, the newsletter of the University of Houston showed the following:

First: undergraduate student who financially relies on his parents can borrow from the basic type of loans, called (Federal Stafford Loan), a maximum amount of 23,000\$ subsidized by the state and 8,000\$ unsubsidized.

Second: undergraduate student who does not financially rely on his parents can borrow from the previous type of loans a maximum amount of 23,000\$ subsidized by the state and 34,000\$ unsubsidized. The total is 57,000\$.

Third: working student and postgraduate student can borrow a total amount of 138,000\$, 65,000 of which are subsidized.

Fourth: postgraduate students and students' guardians enrolled in the first university degree can borrow a federal loan, called (Federal PLUS Loan), which covers the areas that the previous loan failed to satisfy, but it is not subsidized by the government and commands high interest rates reaching 9%.

The numbers cited above indicate the ability of the government-subsidized loans to cover a large sum of the university costs. The total fees of study during the first university stage in the university of Houston per student are 30,000\$ and the subsidized loan is 23,000\$. Thus, the loan covers 75% of the fees. The matter becomes easier in unsubsidized loans which can cover the study fees entirely as stated above.

- See some articles on the Internet, such as:
http://www.adherents.com/largecom/com_islam_usa.html
<http://www.islamicinformationcenter.org/interfaith-center/interfaith-center/census-statistics-for-muslims-in-america.html>
- These numbers are taken from a study titled: Muslim Americans, Middle class and mostly mainstream, published in 22/5/2007 and prepared by (Pew Research Center). You can download a copy from the following link: <http://pewresearch.org/pubs/483/muslim-americans>
- Article titled (Quick Facts about Student Debt) in the following link: http://projectonstudentdebt.org/files/File/Debt_Facts_and_Sources.pdf
- The National Center for Education Statistics in the following link: www.campusgrotto.com/student-debt-in-america.html
- Ibid
- Ibid, an article titled "Top 100 Colleges by highest tuition" www.campusgrotto.com
- Houston University publications, a newsletter titled "Scholarships and Financial aid Guide 2008-2009."
- <http://projectonstudentdebt.org>
- Ibid
- Ibid, "Scholarships and Financial aid Guide 2008-2009."
- www.edupass.org/financial/sources.phtml
- Besides the newsletter of the University of Houston mentioned above, see the following link: http://www.studentfinancedomain.com/student_loans/subsidized_vs_unsubsidized_loans.aspx



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Part 2

Chapter Three

Introductions to the ruling on the student loans

The purpose of this research is to explain the Sharee'ah ruling on these loans, but before that we need a clear perception of the essence of these loans and the need for them on the light of the research conclusions and a set of facts about the US Muslims. Surely, a man cannot judge something unless he forms a clear perception of it. This perception will be given in points:

Point 1: University education is very important for hundreds of thousand Muslims in the United States in the present time and people living in these countries badly need it. Therefore, university education is a public need in the Fiqhi sense at least.

Point 2: University study in the United States is very expensive and the study fees go higher than prices of other things. Increase in the university study fees deprived 50% of the qualified high school graduates of joining the universities at the level of the States. Even 20% of the high school graduates do not go to colleges despite their relatively low costs when compared to the universities.

Point 3: Study-funding resources broadly vary in a way that makes them compete with borrowing should a student better use them. Scholarships are not exclusive to the American nationals, and being a legal resident is enough to make the student eligible for it. Moreover, they are awarded based on the student's academic excellence and distinction. Some grants offered to students based on their financial need include the citizens, residents, and international students, and sometimes grants are awarded to illegal immigrants. These grants sufficiently cover 50% of the study fees. The same thing applies to the university-introduced Labor program which is considered a supplementary source for funding the study since the student earns some money from it.

Point 4: Availability of the study-funding resources in general – apart from borrowing – does not mean that they are always available, nor do they satisfy all the needs when available. The reality and questions of students who are studying testify that the need for

borrowing is still pressing and that the government subsidized loans sometimes fall short to the extent that a student cannot find any alternative except the Riba-based unsubsidized loans. This takes place particularly with students studying in the high-priced private universities or those majored in different medical specialties whose fees burden a body of strong men. For that reason, over 60% of the university students in the US are forced to borrow. Not only do fulltime students resort to borrowing, but also 50% of the working students do.

Point 5: Borrowing generally in the United States is not always connected with the need in its Fiqhi sense, because funding through taking loans and long-term settlement have become part of the culture of the American people – Muslims are of course part of it – and a living style that both needy and wealthy people resort to. In fact, it is an outcome of the capitalist system which is built on Riba (usury) and borrowing. More than that, obtaining grants (which are offered to the needy students only) does not reflect the need in the concept of the Sharee'ah. That is because living below the poverty line that the federal government determines every year is not necessarily associated with poverty, and permitting begging or taking from the money of Zakaah is contingent on necessity. Another reason why living below the poverty line is not necessarily associated with the need is that some people do not register their annual income entirely when they fill in the tax form. Accordingly, they look needy and of low-income, but the reality is otherwise. The government determines the needy citizens based on the data recorded in the tax form that people themselves fill in.



Chapter Four

Ruling on the government-subsidized loans

After these introductions, we will explain the ruling on the subsidized loans:

First: The fact that the government declares that it pays the interests on behalf of the student when he borrows a subsidized loan does not render the loan Riba-based at first. That is because the government plays the role of both the taker and giver of Riba (interests). Supposing that the student deals with a single creditor having a legal personality, i.e. the federal government, declaration of these interests is useless. The government announces it in order to cope with the capitalist economic systems in which loans are always associated with interests.

Second: Riba enters this loan in another way, which is the obligation of paying the interests if the student failed to settle the entire debt before elapse of the six-month period after graduation. This condition renders the loan a Riba-based one. The loan contract in this case, however, is not in itself prohibited for its purpose since it is possible that the student manages to settle the debt during the six months. Thus, prohibition in this contract is prohibition of a means [leading to prohibition] and the contract is prohibited by virtue of another aspect, not in itself prohibited.

Third: What is prohibited in itself becomes permissible under necessity, whereas what is prohibited by virtue of others turns permissible by a need or considerable benefit¹. Based on this rule and the fact that education constitutes at least a need, it is permissible for the Muslim student to take a government-subsidized loan on condition there is a genuine Sharee'ah approved need for it. In other words, he could not depend on himself or his parents to cover his expenses; he did not receive a scholarship; he could not obtain enough grants; and the money he earns from his work with the university is not sufficient. In such a case, he would be permitted to borrow what he needs only since one's need must be answered proportionately. Also, determination to settle the debt on its due time is required in order to spare oneself the payment of interests. This must be done as soon as possible after graduation and before the time of debt becomes due.



Chapter Five

Ruling on the unsubsidized loans

Once the aforesaid alternatives, including the subsidized loan, do not help and the student needs to borrow in interest in order to complete the university study, what will the Sharee'ah ruling be?

Dealing in Riba (interest) is undoubtedly a major sin in the sight of Allah the Almighty; yet, depriving the Muslim student of the university education in these countries which come on top of the world countries in science, culture, and specialization in the fields of knowledge is a point that needs consideration. Generalization of the previous fatwa will bar thousands of observant Muslim students from continuing their university education and keep them practicing mean professions and crafts. Considering the growing number of Muslims, thousands of Muslim students will be denied the university education in the near future. Is it possible that a religion [Islam] whose revelation began by inviting people to learn would be the same religion that deprives its followers of seeking knowledge and rules that a whole nation be left in ignorance and scientific backwardness?! Answering the question in the negative is what understanding the objectives and spirit of the Sharee'ah dictates. Facilitation and alleviation of hardship advocated by the tolerant Islamic Sharee'ah affirm that the fatwa should not be generalized. However, the Sharee'ah rulings of permissibility or prohibition are not issued on the basis of logic, emotions or human reasoning; they are issued on the account of the precise texts, grasping their denotations and knowing the cause, clarifying and establishing the frame of reference.

Therefore, we will present and discuss a number of potential reasons for permitting the Riba-based loans, then give preponderance to the reason which forms a solid ground to permit borrowing in interest should it be the only way to continue the university study.

First topic: Prohibition of borrowing in interest by virtue of others is a prohibition of means

I have never found an explicit text authentically attributed to recognized contemporary scholars that borrowing in interest is permissible for study purposes since borrowing [in interest] is prohibited by virtue of others a prohibition of means. But what has been mentioned is implied by the saying that borrowing in interest is prohibited by virtue of others a prohibition of means, and it is known among scholars that what a saying implies is not a saying.

The respected scholars in the European Council for Fatwa and Research are the ones who expressed that lending [in interest] is in itself prohibited, whereas borrowing [in interest] is prohibited by virtue of others. This statement was mentioned in one of the Council's Fatwas in which they permitted Muslims living in the West to borrow in interest in order to buy a house with certain conditions and regulations. Here is the text of the fatwa:

The prime criterion for forbidding usury, according to a number of Quranic verses, revolves essentially around taking usury (not giving it). However, giving usury was forbidden only to obstruct pretext, i.e. ways leading to usury, which is termed by jurists as 'Sad Atharaa'i'. On similar grounds, notaries and witnessing usurious transactions was prohibited. They were made as such to check the means that lead to usury. While taking usurious loan is categorically forbidden, paying interest towards a loan is permitted if there is an urgent need as maintained by a number of jurists. It has also been maintained that taking a usurious loan is permitted if there is no other [lawful] way available ².

Considering what have been stated above, it is permissible for the Muslim student to borrow in interest in order to continue his university study if borrowing proved to be the only resolution based on the fact that university education is a need. There are some comments on this reason for permitting borrowing:

First: The Prophet, sallallaahu 'alayhi wa sallam, was authentically reported to have cursed the taker and giver of Riba as well as the notary and two witnesses of it. Authentic Hadiths were abundantly reported in this regard. For instance, Jaabir ibn Abdullaah (may Allah be pleased with him) said: "The Prophet, sallallaahu 'alayhi wa sallam, cursed the taker of Riba, its giver, its notary, and its two witnesses. He said that they are equal in sin ³." In his commentary on Muslim's Saheeh, Imam An-Nawawi said: "This is an explicit statement on prohibiting writing down the document of the dealers of Riba and witnessing it. It implies the prohibition of cooperation on falsehood ⁴." Had the creditor taken a ruling different from that of the borrower, the Prophet, sallallaahu 'alayhi wa sallam, would not have kept silent on that, particularly in the position of legislation and conveying from Allah The Almighty. The scholars also would not have kept silent on explaining the difference that a direly-needed matter is based on. On the contrary, the Prophet, sallallaahu 'alayhi wa sallam, affirmed that both the taker and giver of Riba are equal in sin.

An-Nawawi did the same thing when he explained the Prophet's saying, "Gold for gold...both the taker and the giver are equal ⁵." He said: "The payer and taker of the extra are disobedient usurers." ⁶ Ibn Hajar Al-'Asqalaani held the same stance while explaining the Hadiths of Riba and Allah's Saying: "Those who consume Riba..." in his book *Fat-h Al-Baari*. Ibn Hajar quoted At-Tabaraani as saying: "Allah mentioned the taker of Riba in particular because people on whom these verses were revealed lived on Riba. Otherwise, the punishment is allocated for anyone dealing in Riba whether he lived on it or not ⁷."

Second: Proofs from the Sunnah include the saying of the Prophet, sallallaahu 'alayhi wa sallam, "Do not sell one dinar for two dinars or one dirham for two dirhams; I fear you fall into Riba." ⁸ That is to distinguish between what is prohibited as prohibition of means and what is prohibited as prohibition of purpose. Thus, the Prophet, sallallaahu 'alayhi wa sallam, forbade selling one dinar for two dinars in cash, which is Riba Al-Fadhl (excess usury), for fear of falling into Riba An-Nasee'ah (Delay usury).



Ibn -Al-Qayyim clarified this point saying:

Riba is divided into two categories: apparent and hidden. The apparent category has become prohibited due to the great harm it entails, whereas the hidden one is prohibited because it is a pretext to the apparent category. It means that the first category is prohibited for its purpose and the second is prohibited due to the result it leads to. The apparent category includes Riba An-Nasee'ah (delayed usury) that people in the pre-Islamic era used to practice. Riba An-Nasee'ah signifies that a borrower delays the payment of the debt in return for extra money, and the more the debt is delayed, the higher the money will be paid until one hundred becomes thousands. Therefore, Allah The Most Merciful prohibited Riba and cursed its taker, giver,

notary, and two witnesses. He prohibited it out of His Mercy, Wisdom, and Generosity to His slaves and informed the one who does not give it up of a war against him from Allah and His Messenger. Riba Al-Fadl (excess usury), however, is prohibited in order to block the means leading to the prohibition⁹.”

Third: scholars concluded with certitude that Riba An-Nasee'ah is prohibited in itself and for its purpose, and recent scholars followed the early ones in this respect. Fiqh academies that expressed this fact include Islamic Research Academy in Cairo thirty years ago. They issued a statement in 1385 A.H. saying: “Lending money in interest is prohibited and neither need nor necessity legalizes it. Similarly, borrowing in interest is prohibited and the borrower becomes sinful except when forced to it by necessity. In this regard, a Muslim will be religiously accountable for proportioning one's necessity.”¹⁰ Contemporary Fiqh Academies unanimously agreed on this ruling, but the context does not permit quoting their fatwas on the issue.

Based on what is stated above, borrowing in interest is not prohibited by virtue of other a prohibition of means; it is prohibited in itself a prohibition of purpose exactly like lending in interest. So, it is not correct to say that borrowing in interest for study purposes is permissible on the pretext that education is a need which makes the prohibition by virtue of others lawful.

Second topic: Treating need in equal terms with necessity in permitting the prohibition

A group of contemporary scholars issued a fatwa that it is permissible to borrow in interest for the purpose of completing the university study arguing that education is a need and sometimes this need could not be satisfied except through borrowing in interest. If borrowing in interest proved to be the only alternative, they added, there would be no harm in it because need, like necessity, turns the prohibition permissible.

In a question submitted to the senior judge Faisal Mawlawi (may Allah guard him) titled: “Ruling on taking a Riba-based loan from the university to continue one's study,” the questioner said:

I am a Muslim living in Sweden and want to continue my university study, but I could not do that except by taking a Riba-based loan from the university. This is the only way to continue my study. Should I reject it and stop my education? Am I permitted to take the money considering my case a necessity? This is a problem that all Muslims in

Europe generally encounter and that would enable non-Muslims only to study and prevent Muslims from effective participation in the West. All Muslims and the new Muslim generations face this problem since education is very important in the West. I do not mean that all Muslim students must take Riba, but I am just asking about those who are forced by necessity to take it. Please advise.

The answer of Sheikh Mawlawi was as follows:

It is known that Riba is one of the major sins, and both taking and giving it are in principle prohibited. However, they vary in the sense that taking Riba cannot be permissible under any circumstances or necessity, and were there any necessity, it would permit only the Riba contract. In such a case, a Muslim gives away the Riba he has taken or does not accept it from the beginning. That is because there could be no necessity for taking Riba or benefiting by it. Unlike giving Riba, i.e. borrowing in interest; there might be necessity for it, and thus scholars permitted the Muslim to give Riba in such circumstances. Continuation of study may be considered necessity since seeking knowledge is an obligation, and if it is not necessity, it will unquestionably be a need that most of Muslim jurists treat in equal terms with necessity. Therefore, if the Muslim student could not continue his study except by borrowing in interest, it would be permissible for him to borrow on condition one has tried his best to look for other lawful ways¹¹.

The point in this fatwa is the sheikh's saying: “... and if it is not necessity, it will unquestionably be a need that most of Muslim jurists treat in equal terms with necessity.” He also states that continuation of study is necessity, and this will be discussed in the next topic – Allah willing. The sheikh's fatwa is the same conclusion of the European Council for Fatwa and Research in its previous fatwa which permits buying houses through Riba-based loans with certain conditions. The ECFR affirmed that one of the reasons for permitting this is considering the need like necessity in permitting the prohibition. Here is part of the text of the fatwa with slight modifications: “This fatwa is based on the following two major juristic considerations. First: The juristic rule which states that extreme necessities turn unlawful matters lawful. Moreover, Muslim jurists have established that need, whether for an individual or a group, can be treated in equal terms like extreme necessity. Need is defined as those things which put the Muslim in difficulty, if not fulfilled, even if he or she can do without...” This fatwa implies permissibility of borrowing in interest due to the need for education.

There are some comments on this argument that permit borrowing in interest due to a need:

First: Scholars cited the rule “Need is treated in equal terms with necessity in permitting the prohibition” in the books of Fiqhi rules and *Al-Ashbaah wan-Nadhaa’ir* in order to prove forms of dealings the Sharee’ah endorsed by explicit texts. Since these forms of dealings were endorsed contrary to the analogy, Muslim jurists introduced for that a rule which would show easiness of the Sharee’ah and how it alleviates hardship from people. In other words, Allah The Almighty permitted for people what they need even if this would violate the general rules and analogy. Perhaps the often-quoted statement that contemporary scholars use for this rule is what *As-Suyooti* wrote in *Al-Ashbaah wan-Nadhaa’ir* while explaining the rule “Need, whether for an individual or a group, can be treated in equal terms like necessity.” He said: “Lease, *Gi’aalah* (Reward allocated for bringing back lost items), and *Hiwaalah* (Bill of exchange) and the like are with greater reason made permissible against the analogical deduction. For instance, coating a pot with silver is permissible for a need ¹².”

The text signifies that the saying which considers the need a reason for alleviation is not unconditionally applicable. Put differently, it is not permissible for the Muslim to approach a matter which is prohibited by a text because of a normal hardship involved. Rather, concession must come from the Sharee’ah itself by a text or obvious analogy. Thus, the rule was introduced only in the context of grounding the rulings and demonstrating harmony of Islamic legislation ¹³.

Second: In this regard, *Al-Ghazaali* (may Allah have mercy upon him) grounds for the rule “What has been established against analogical deduction cannot be extended to other cases”, saying:

The second section refers to what is excluded from another rule and there is significance for its exclusion. This rule is extended to every issue revolving between the excluded and the remaining as well as sharing the cause of exclusion. For instance, exclusion of *Al-‘Araaya*; it was not legislated to abrogate or cancel the rule of *Riba*, but it was excluded due to people’s need. So, we draw analogy between the grapes and dates because we see them sharing the same sense. Otherwise, we dare not do this conjunction ¹⁴.”

Al-Ghazaali (may Allah have mercy upon him) affirms that stated needs should not be

unconditionally extended to unstated needs and stipulates existence of significance to its exclusion, i.e. presence of a common cause. Thus, he treated grapes like dates in the sense that it is permissible to sell grapes unequally for raisins due to a cause that he did not express. Perhaps the cause is storing or that the sold items are fruits. *Ibn Hajar* articulated this cause while explaining the Hadith of *Al-‘Araaya*. He said: “The righteous predecessors differed whether or not grapes could be conjugated with others like dates in *Al-‘Araaya*. Some scholars, like *Dhaahiris*, contested it, whereas some *Shaafi’i* scholars, like *Al-Muhhib At-Tabari*, approved it. Other scholars said that it is conjugated with grapes only, and this is the dominant opinion of the *Shaafi’i* school of jurisprudence. *Maaliki* scholars said that every item that can be stored is included, and *Ash-Shaafi’i* also said it is extended to every fruit¹⁵.” Each cause suggested by *Ibn Hajar* could be deemed an obviously defined description that serves as a valid cause for the ruling, and it is obvious that here need alone cannot be considered as a valid cause for the ruling.



Ibn Qudaamah came to the same conclusion when he talked about *Al-Istislaah* or *Al-Masaalih Al-Mursalah* (public interest) as one of principles of the *Hanbali* School of jurisprudence. After mentioning examples for the needs and personal preferences, he said: “There is no disagreement that it is not permissible to adhere to these two categories without evidence. Had this been permissible, it would have been introducing to the Sharee’ah by reason, and we would not have needed messengers. Also, the common Muslim would have been equal to the scholar since every person knows his personal interest ¹⁶.”

Third: From all the quotations above, one gets assured that the rule “treating needs in equal terms with necessities” is an *Usooli* rule, not a *Fiqhi* rule ¹⁷. It means it is not required that need is established for individuals so that lease, *Hiwaalah* and *Salam*

are made lawful for them; rather, they are rulings and lawful transactions for the beginning and the Sharee‘ah permitted them due to people’s need for them. Thus, other cases should not be extended to them due absence of the legalizing text. Assuming otherwise would result in the fact that whatever people need in general becomes lawful for all of them, whether they need it or not, since need establishes a permanent ruling and is not required to exist with individuals. To apply the rule to our issue, borrowing in interest would be permissible for all the students regardless their need since need is treated in equal terms with necessity in permitting the prohibition! No scholar can say that. So, it is inevitable to conclude that the rule is an Usooli one, and the need mentioned in it reflects a continuous needful matter on which the Sharee‘ah based some rulings.

Fourth: presence of necessity with some individuals is the only exception to the above discussion. In such a case, they are permitted to violate the Sharee‘ah rule to the extent in which necessity and need are satisfied, and thus it could be said “need is treated in equal terms with necessity in permitting the prohibition.” Necessity must exist first in order for the need to be incorporated.¹⁸ Imam Al-Joowayni explained what a Muslim can take when prohibition is unavoidable and the lawful is not available, saying: “In this subject, it is supposed that prohibition dominates and people of the area cannot leave their dwellings or move to other lawful locations...it must be limited to the extent needed, and things related to luxury and entertainment are forbidden. Were this impossible provided they are a large population and living in such hard conditions and waiting elapse of the times of necessity will deprive them of their needs, the ruling would apply to them like all people, i.e. they should take only the extents needed as previously detailed.¹⁹”

To sum up, it is not valid to support permissibility of borrowing in interest to continue the university study by the rule “Need is treated in equal terms with necessity in permitting the prohibition.”



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Reality of and Ruling on Student loans in the United States of America

Prepared by
Dr. Main Khalid Al-Qudah
Member of AMJA fatwa committee



Part 3

Third topic: Considering education necessity, not only a need

In the introduction to his book “Diraasah fi Maqaasid Ash-Sharee‘ah” under the topic “Limiting the objectives to the main five fundamentals”, Dr. Yoosuf Al-Qaradaawi said: “There are some notes on the way scholars of Usool proved some necessities and fundamentals, such as supporting protection of mind by the prohibition of wine (alcoholic beverages) and punishing their consumer. I find that protecting one’s mind in Islam occurs by many methods and ways, which include making seeking knowledge obligatory for every Muslim man and woman as well as going on journey to seek knowledge and continuing to seek knowledge from cradle to grave. Also, leaning every science the Muslim Ummah needs in its religion and worldly life is communal obligation.” This statement, though is not explicit in considering the university study necessity in particular, clearly indicates that protecting the mind is one of necessities which cannot be fulfilled in the present time except by the obligation of seeking knowledge. In the previous topic, I quoted a fatwa of Sheikh Faisal Mawlawi in which he said, “Continuation of study may be considered necessity.” It explicitly states the permissibility of borrowing in interest should it be the only available alternative.

Considering seeking knowledge necessity, I do make the following comments:

First: Necessity in the literature of Fiqh signifies a state in which man would inevitably or imminently die if he did not eat the prohibition. This definition makes necessity exclusive to the matter of food and that it is the only state in which man may die. This exclusivity mostly relied on the association mentioned in the Quran between permissibility of eating meat of the dead animal and necessity due to hunger. Allah The Almighty Says: {He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful.} This

Quranic verse and others do not imply limiting the state of necessity to the two criteria, i.e. fear from dying of hunger and eating food to escape death. Instead, the verse mentioned this case as an example, not to show exclusivity. Commenting on this verse, Al-Qurtubi (may Allah have mercy upon him) said: “Necessity occurs either by coercion of a tyrant or by severe hunger. The majority of Muslim jurists and scholars interpreted it to mean the one who is baffled by sanctity or hunger, and this is the correct meaning. Other scholars said that it means the one who is forced and overpowered to eat these unlawful items. Mujaahid said it means the man who is forced to it, such as when the enemies take him and force him to eat the pork or commit any act of disobedience to Allah the Almighty. Yet, coercion permits doing these things till coercion is removed.” This discussion indicates that coercion is a considerable reason under the Sharee‘ah to make the prohibited lawful. Although the verse did not say this explicitly, other texts considered it.

Parallel to that, other texts considered lack of wealth, i.e. subsistence, necessity which permits eating meat of the dead animal. It was authentically narrated on the authority of Jaabir ibn Samurah (may Allah be pleased with him) that a man alighted at Al-Harrah with his wife and children. A man said (to him): “My she-camel has strayed; if you find it, detain it.” He found it, but did not find its owner, and it fell ill. His wife said: “Slaughter it.” But he refused and it died. She said: “Skin it so that we may dry its fat and flesh and then eat them.” He said: “Let me ask the Messenger of Allah, sallallaahu ‘alayhi wa sallam. So he came to the Prophet and asked him. The Prophet,



sallallaahu ‘alayhi wa sallam, said: “Have you sufficient for your needs?” He replied in the negative. He then said: “Then eat it.” later, when its owner came and he told him the story. He said: “Why did you not slaughter it?” He replied: “I was ashamed (or afraid) of you.” The commentator on this Hadith explained the Prophet’s saying “Have you sufficient for your needs?” to mean that do you have enough food that makes you, your family and your children in no need of it. The Hadith proves that not only fear from dying out of hunger makes eating meat of the dead animal lawful, but also lack of wealth and subsistence does. The context of the Hadith indicates the length of time span between finding the she-camel, its illness and its death, and the question of the Prophet, sallallaahu ‘alayhi wa sallam. Had the companion who found the she-camel been about to die, he would not have waited for that period of time.

Most importantly, we draw from the famous Hadith of Al-‘Araaya, which was narrated on the authority of Zayd ibn Thaabit (may Allah be pleased with him) that the Messenger of Allah, sallallaahu ‘alayhi wa sallam, permitted selling ripe fruits for dried dates in Al-‘Araaya.” Al-‘Araaya takes various forms which were detailed by Ibn Hajar (may Allah have mercy upon him) as follows:

There are many forms of Al-‘Ariyyah. For instance, a man tells the owner of a palm tree garden, “Sell me the fruits of particular palm trees for estimation of dried dates.” The owner of the garden will estimate it, sell the fruits, receive the dried dates, and give him access to the palm trees to benefit by its ripe dates. Another form is that the owner of the garden gifts certain palm trees to a man, then the owner gets harmed by the gifted entering upon him, so he estimates the fruits and buys their ripe dates by dried dates paid in advance. A third form is the owner of the garden gifts certain palm trees to a man, and the gifted suffers harm by his waiting for the ripe dates to become dried dates, provided he does not like to have ripe dates because he needs the dried dates. In this case the gifted estimates the ripe dates and sells them to the grantor or someone else for dried dates paid in advance. A fourth form is that a man sells the dates of his palm tree garden after the fruits become fresh and excludes certain palm trees for his and his children’s use. The excluded dates constitute the part exempted from being estimated for Zakaah. These are called ‘Araaya because they are exempted from estimation to be included in Zakaah. Therefore, a concession was made for people of need who do not have money and own unwanted amounts of their food

of dates to buy with them ripe dates on the palm trees after estimation.

Despite the variety of the forms of Al-‘Araaya, no scholar stated that necessity or fear from death was the motivating factor for permitting this sort of transaction. The point was that people’s need for this sort of transaction and the harm entailed by banning it called the Prophet, sallallaahu ‘alayhi wa sallam, to permit it although it involves Riba Al-Fadhl or Riba An-Nasee‘ah according to some scholars. Ibn Hajar Al-‘Asqalani explained this Hadith which was narrated by Al-Bukhaari and said: “According to Maalik, ‘Ariyyah must not take place in this manner except with the gifted only due to the harm the owner of the garden endures by others’ entering it or to alleviate the harm from the other party when the owner of the palm trees irrigates and spends on them. Also, it is required to occur after the fruits become fresh and it has to be exchanged with dried dates paid in advance. Ash-Shaafi‘i disagreed with Maalik in the last condition and stipulated immediate delivery.” Stipulating advance payment – according to Maalik – is the essence of Riba An-Nasee‘ah. Ibn Al-‘Arabi Al-Maaliki affirmed the opinion of Maalik, saying: “Considering the need to permit the banned resembles considering necessity in making the prohibited lawful. Examples for this include the Hadith of Al-‘Araaya, selling the fruits on the palm trees for dried dates on the ground. This form of sale involves Riba in three ways: selling ripe dates for dried dates, relying on estimation or guess in valuing the two payments of Riba, and postponing delivery if we said it would be delivered at the time of picking the fruits.”

More than that, loan according to Maaliki scholars is in principle one form of Riba An-Nasee‘ah but was made lawful as preference and exception to the original rule. Ash-Shaatibi grounded for Istihsaan (personal preference) advocated by the Maaliki scholars, saying: “It [Istihsaan] has many examples in the Sharee‘ah, such as loan, which is in principle Riba. In loans a dirham is given for a dirham to be paid in a specific term, but it was made lawful because it provides gentleness and ease for the needful. Had it remained on the original ruling of banning, it would have caused hardship for the Muslims. Similarly, if Riba An-Nasee‘ah had been removed from the loan, the principle of ease would have been canceled.”

Scholars know that it is established beyond any doubt that Riba An-Nasee‘ah and eating meat of the dead animal are in themselves prohibited and cannot be lawful except under necessity. Furthermore, the Prophet, sallallaahu ‘alayhi wa sallam, permitted

both of them for a need without death being expected, and thus he made Riba An-Nasee'ah in Al-'Araaya and loan lawful. He also permitted eating meat of the dead animals for the Muslim who does not have enough food. Therefore, we must say that necessity resembles need which neither requires fearing from death nor is exclusive to food, because loan pertains to dealings. Since necessity – or need according to the aforesaid opinion – permitted protection of life and property without any difference between them and the rest of the five fundamentals, i.e. protection of one's religion, mind, and honor, the conclusion would be that everything Muslims need to protect their religion, life, mind, property, and honor with is considered necessity which permit things intrinsically prohibited.

Dr. Wahbah Az-Zuhayli (may Allah preserve him) after exploring some definitions that jurists suggested for necessity said:

It seems that all these definitions define necessity in the context of food only, so they are neither sufficient nor inclusive of the full sense of the term which represents a principle or a theory by virtue of which the prohibition becomes lawful or the obligation not required. Thus, I suggest the following definition: "Necessity occurs when man undergoes a state of danger or severe hardship under which he fears imminent harm to his life, honor, mind, property, or their affiliates. In such a state, it is permissible to commit the prohibition or leave the obligation or delay it to ward off harm that will most probably afflict him within the limits of the Sharee'ah."

Second: Jurists commonly built their distinction between necessity and need on the amount of hardship. To clarify, necessity occurs when man undergoes a situation in which he would surely or most probably die if he did not commit the prohibition. The need, however, is a situation in which man needs ease and alleviation of harm which usually leads to hardship and difficulty. It is not valid to distinguish between them on the basis that necessity refers to what the Muslim needs genuinely as proved earlier. Nevertheless, it is essential to find a criterion for distinguishing between necessity and need in order for the Sharee'ah rulings to be harmonious as well as both become well-defined, and need is distinguished from the preferable or supplementary matters because each has its own rulings and concessions.

The suggested criterion for distinguishing between necessity and need is "presence of the alternative". Hence, unlawful things that people at first need to protect the four fundamentals fall under necessity

as long as nothing can substitute them. Once an alternative is available, it will be considered a need. Al-'Araaya and eating meat of the dead animals are made permissible by Sharee'ah texts, and permitting loan based on Istihsaan according to scholars advocating it is considered necessity due to absence of the alternative and presence of people's need for it. Other unlawful things that people need and that which have lawful alternatives constitute a need.

The famous example that jurists draw as evidence on the need is the Prophet's use of silver to maintain his broken cup. It was narrated on the authority of Anas ibn Maalik (may Allah be pleased with him) that when the cup of Allah's Messenger, sallallahu 'alayhi wa sallam, got broken, he fixed it with a silver wire at the crack. Ash-Shiraazi said: "Chapter on Items coated with gold and silver: It is prohibited to coat the items with gold. Shaafi'i scholars differed about the ruling on the items coated in silver. Some of them held that little of it would not be disliked based on the narration of Anas..." and he cited the full Hadith.

The above criterion for distinguishing between necessity and need was mentioned by Ibn Qudaamah in Al-Mughni. He said:

It is permissible to use silver in the utensils or the like for a need, which means that one benefits by the silver in this aspect even if other alternatives exist. Al-Bukhaari narrated on the authority of Anas that when cup of the prophet, sallallahu 'alayhi wa sallam, got broken...etc. Gold, however, is allowable but only the amount that necessity calls for, such as the nose for the Muslim his nose is chopped. It was narrated on the authority of Abdur-Rahmaan ibn Tarfah that when nose of his grandfather 'Arfagah ibn Sa'd was cut off on the day of the battle of Al-Kulaab, he got a silver nose but it developed a stench, so the Prophet, sallallahu 'alayhi wa sallam, ordered him to get a gold nose.

The quotation clearly shows that necessity refers to a matter that cannot be substituted, even if not explicitly expressed by Ibn Qudaamah, because 'Arfagah did not get a gold nose except when the silver one could not do the job.

Contemporary scholars who held the same position include Dr. Sa'd Ash-Shitri (may Allah preserve him). He said:

Necessity means what entails harm on the person when he abandons it provided no other alternatives can replace it. Some Muslim jurists say that necessity refers to something the lack of which causes death or destroys an organ, but this is not correct. Unlike the need; it is something that, when abandoned, brings

about harm for the Muslim, yet other alternatives may replace it. An example for the necessity is that when man is under necessity and does not find any food except a dead animal. In this case he would suffer harm if he did not eat from the dead animal and there is no alternative to it. An example for the need is the Hadith in which the Prophet's cup was broken. This is a need since it was possible that the cup was welded by iron or brass or any other welding material.

Third: Saying that necessity in the literature of Fiqh means "what entails harm on the person when he abandons it provided other alternatives cannot replace it" is very plausible and supported by evidence as detailed above. It is more appropriate and closer to the objectives of the Sharee'ah and alleviation of hardship from people. An example for this in our time is that when water or electricity is cut from the Muslim house and he does not find any way to have it supplied again except by borrowing in interest, he will be permitted to borrow although outage of electricity or water supply does not certainly or probably lead to death. Had it been required that necessity had to be established, i.e. the man would suffer death or probably die if he did not borrow, it would not have been permissible for him to borrow in interest. No scholar can hold this stance.

Fourth: Necessities change from a place to place and from time to time. Electricity has become one of the necessities of life whereas it was not as such in the past. Similarly, obtaining a university degree has become necessary to verify the education a student has received, and one in most cases could not continue his study or get a job without a degree. In the recent year, internet service has become indispensable for almost all people in the developed countries and so on.

Change and estimation of necessities in this manner have been approved by the Fiqh Academies. For instance, Al-Azhar's Islamic Research Academy released a statement in 1385 A.H., 1956 A.D., about the issue of Riba interests. It reads: "Lending in interest is prohibited, and neither need nor necessity makes it lawful. Also, borrowing in interest is prohibited and its sin is not removed except under necessity. In this regard, every person will be religiously accountable to determine his necessity." Contemporary scholars adopt the same stance in fatwa. Dr. Wahbah Az-Zuhayli (may Allah preserve him) explained the condition of the necessity which turns the prohibition lawful, saying: "Under the public necessity, the Muslim governor has to ascertain the presence of unbearable oppression, obvious harm, severe hardship, or public interest in a way that might expose

the state to danger should it not work according to what necessity requires. On this basis, some Muslim jurists tolerated matters of the foreign affairs of the country or the international trade, and hence they permitted the state to deal with foreign countries and pay annual taxes to fend off the enemies' danger or maintaining stability of the state. Some jurists also permitted paying Riba interests for foreign loans that the public interest of the state direly needs."

Fifth: It has been established that necessity refers to a matter that, if abandoned, would entail harm on the Muslim and there is no other alternative to substitute it, and necessity changes according to change of time and place. Also, university education for Muslims living in America has been proved to be very important and sometimes cannot be achieved except through borrowing in interest. Therefore, borrowing in interest for the purpose of continuing the university study is permissible once it is the only way available. In other words, when a Muslim student first expended his usual effort on finding a lawful source of funding like grants, aid, scholarships, or work through the university, then resorted to the subsidized loan, if eligible, but it did not satisfy his needs, provided he in vein tried to move to another place or country to continue his study, and his graduation became contingent on taking a Riba-based loan, he would be permitted to borrow in interest. This conclusion is not unprecedented position; yet, this position has been adopted in fatwa since the past. Regardless the fact that Muslim jurists called it necessity or need, they – to the best of my knowledge – have been in agreement that Muslims are allowed to commit from the prohibition an amount they need to strengthen their power and maintain their affairs where necessary.

Al-Joowayini (may Allah have mercy upon him), a Muslim scholar from the fifth century of Hijrah, said: In brief, when the prohibition dominates the time, and people cannot find any lawful way, they will be allowed to take from the prohibition only the amount needed. It is not required to reach the state of necessity that makes eating meat of the dead animals lawful for individuals. Here people's collective need is treated in equal terms with necessity for the coerced individual. The cases we have contested and proved so far show that people can take the amount that, if abandoned, will inflict harm in the present and the future, and the harm we have already talked about refers to the thing which is expected to spoil the structure, weaken the authority, or destabilize the affairs of living.

Al-'Izz ibn Abdus-Salaam (may Allah have mercy upon him), a Muslim scholar from the seventh century of Hijrah, said:

When the prohibition spreads on earth to the extent that the lawful no longer exist, it will be permissible to use an amount of the prohibition that the need calls for. This is not confined to the necessities because confinement to them would weaken the country and encourage the unbelievers and tyrants to control the Muslim lands. Also, people will quit their profession, manufacturing and the means which help accomplish people's interests."

I wish I know if there is any harm afflicting Muslims in America greater than depriving them of the university study and obliging them to remain academically retarded or work in mean professions and crafts in a country where people travel to seek knowledge. Nonetheless, it must be clear that the fact that education is necessity does not mean that people unconditionally should engage in borrowing in interest or that the fatwa of permitting it is always given. Rather, every student must ask for fatwa from a scholar whom he trusts his knowledge and religiosity whether or not he should borrow in interest. A student, to be discharged from liability and guard his religion, should not borrow in interest on the first days of the university study, but he has to resort to the lawful sources of funding, and continue his study till all means are blocked and borrowing in interest becomes the only way to continue his study, in this case things which were not tolerable at the beginning becomes tolerable. A student should not borrow large amounts of money; he should borrow an amount that fulfills his need. Surely, necessity must be answered proportionately. Allah is the Most High and All Omniscient!

This is what Allah has helped me to compile in the topic of Student Loans. Allah is the Cherisher of success. May peace and blessings of Allah be upon our Prophet Muhammad, his family and all his Companions!

Draft Decision

The Assembly of Muslim Jurists of America, in its 6th annual conference held in Montreal, Canada, Oct. 2009, and after studying the papers submitted by Amja's members and discussing them in detail, has reached the following decisions on Student Loans:

1. University education is one of the most important needs of the time for Muslims living in the United States, and it could be considered one of the necessities on the basis that necessity refers to something the lack of which entails harm on the Muslim and there is no other alternative to it.

2. Muslim students must expend their strenuous efforts in finding lawful sources to fund their studies, such as grants, financial aid, scholarships, and labor programs of the university.
3. If the student can decrease his study load and work part time to financially support oneself, or take a subsidized loan, he shall do so.
4. If the student cannot do that and needs a subsidized loan, he will be allowed to take the loan on condition that he takes only the amount needed and tries his best to settle his debts in the repayment period to avoid paying the interests.
5. When the subsidized loan (which is interest-free) is not enough, and there is no other way except borrowing in interest, it will be permissible for him to borrow in interest only an amount that obviates his necessity. That is because necessity must be answered proportionately. Borrowing should take place after he has already enrolled in his study, since things which were not tolerable at the beginning can be tolerated later.

The Assembly urges all Muslims to cooperate together in order to fulfill their needs through lawful ways and try their best to guarantee education of their children and provide funding resources which agree with the ruling of the purified Sharee'ah.

Allah is the Cherisher of success and the Guide to the straight path.



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