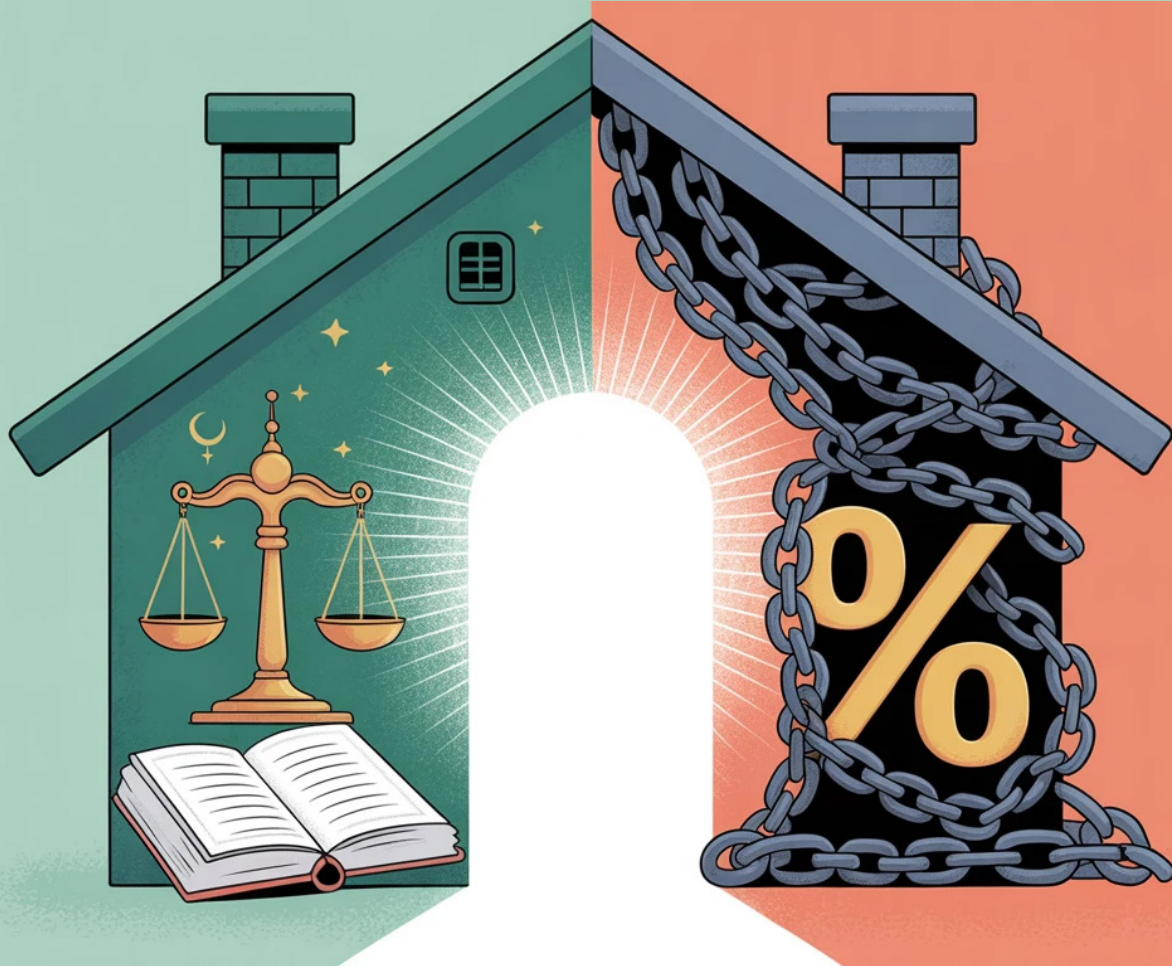




Muslims & Islamic Mortgages

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There is an ongoing debate within Muslim communities regarding the permissibility of Islamic mortgages, especially in Muslim minority countries. While according to a vast and reputable body of Shari'a experts, Islamic mortgages meet Shari'a requirements, their economics are very similar to conventional mortgages, except for certain nuances that someone without a deep understanding of Shari'a, banking operations or the actual transaction documentation would be unaware of. This economic similarity, which is due to the current structure and regulation of the banking system, leads to numerous substance vs form debates. Further adding to the debate is that in Muslim minority countries, Islamic mortgages tend to be more expensive than conventional mortgages, which often leads to further criticism.

This article aims to briefly discuss the current attitudes of Muslims towards Islamic mortgages based on the author's own experience. Individuals within Muslim communities can be broadly categorised into the following four categories in relation to their views about Islamic mortgages:

Category (A) – Muslims who are not comfortable with Islamic mortgages from banks, as they or their Shari'a advisors are of the opinion that Islamic mortgages in their current form are too similar to conventional mortgages, as the economic substance is the same between them. These individuals choose to avoid bank mortgages altogether, both Islamic and conventional, preferring to wait for a 'better' alternative Shari'a-compliant home finance product, that they or their Shari'a advisors are more comfortable with from a Shari'a perspective. However, most of the time and in most markets, such a 'better' product is unavailable, or even if it is available, the waiting list is too long for the majority of people. Therefore, individuals in this category choose to either: (1) decide to rent for the rest of their lives and are comfortable with this decision, or (2) save and wait to purchase a home in cash or (3) borrow funds interest free from family members or friends for a cash purchase.

Category (B) – Similar to Category A, those who feel that Islamic mortgages offered by banks are no different to conventional mortgages and are waiting for a 'better' alternative Shari'a-compliant home finance product that they or their Shari'a advisors are more comfortable with from a Shari'a perspective. However, the difference between individuals in Category B and those in Category A is that individuals in Category B obtain an opinion from a Shari'a expert, allowing them to take out a conventional mortgage based on necessity or need after explaining their particular circumstances to the Shari'a Expert. *(Note: I do not agree with this opinion.)*

Individuals may also fall into this category, due to the higher cost or higher deposit requirements of an Islamic mortgage when compared to a conventional mortgage.

Category (C) – Those who take out conventional mortgages without (1) checking with people of knowledge, or (2) who may by themselves take a Shari'a opinion, when they are not qualified to do so, or (3) simply just don't care. Such individuals should fear Allah when it comes to this matter, as interest is a major sin and should not be taken lightly. Justifications given sometimes by some in this category are that Islamic mortgages are more expensive or simply interest in disguise.

“Economic similarities between Islamic mortgages and their conventional counterparts have led to form vs substance debates



Many in this category do not just stop at one conventional mortgage for their primary residence but use conventional mortgages to build vast property portfolios. I have met those who try to justify this action by stating they give a lot away in charity to Islamic causes.

Category (D) – Those individuals who follow Shari'a advisors who do not allow taking out conventional mortgages under any circumstance, or individuals who do not really feel comfortable with taking out an interest-based conventional mortgage even if they can get an opinion from a Shari'a expert allowing

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them to do so. Individuals in this category feel comfortable taking out an Islamic mortgage, relying on the opinion of reputable Shari’a experts that they are permissible and meet Shari’a requirements. Although at times it is portrayed by many that it is only a small minority of Shari’a experts who allow Islamic mortgages, this is not an accurate representation as there are a significant number of Shari’a experts from various denominations and backgrounds across the Muslim world, who are of the opinion that Islamic mortgages in their current form are permissible and meet Shari’a requirements.

Some of the individuals in Category D may prefer a “better” alternative Shari’a-compliant home finance product, that is fundamentally different to conventional mortgages, but there might be no such products available in the



market, or the waiting lists might be too long. For such individuals, Islamic mortgages give them an option to purchase a home, as they too opt to follow the opinion of Shari’a experts who have approved Islamic mortgages.

Quite a large number of individuals would fall into Category D. The main impediment for them in Muslim minority countries is that Islamic mortgages tend to be more expensive than conventional mortgages due to factors such as the small size and higher cost of funds of the Islamic banks operating within the country or possibly due to a lack of competition.

Having a reduced cost of funds (through more deposits) or more players in the market is beneficial for those in this category as the price difference between Islamic and conventional mortgages would go down, as is the case in more developed Islamic finance markets, where the price differential is basically non-existent. Blanket statements are often made stating that Islamic finance is much more expensive than its conventional counterpart, but in Muslim countries, this is not accurate at all.

Furthermore, it is to be expected that the number of individuals in Category B would reduce, as based on my experience, it is less likely for someone to go for a conventional product if the Shari’a-compliant alternative is similarly priced, even if they are not 100 per cent comfortable with the Shari’a-compliant product.

To conclude, in my humble opinion, players operating in the Islamic mortgage segment can be supported at the same time as supporting those who are trying to launch “better” alternative Shari’a-compliant home finance products, and there does not necessarily have to be an all-or-nothing approach. The more competition and options available to Muslim customers, the better it is, due to the size and demand of the market. Islamic mortgages give an option to those who choose to engage with the traditional banking system and who would otherwise be left out, as they do not want a conventional mortgage under any circumstances. Differences of opinion are part and parcel of our scholarly tradition, and expecting complete uniformity of opinion, especially in a flexible area such as Islamic commercial law, is not possible.