

IMPLEMENTATION FIXED OF REBATE IN ISLAMIC FINANCING FOR EARLY SETTLEMENT ON ISLAMIC PROFIT FLOATING FINANCIAL RATE

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ABSTRACT

Islamic financing is an alternative to conventional debt instruments. Islamic financing is based on the contract of sale transactions with deferred profit according to the principle of the time value of money are Sharia-compliant. According to sharia, Islamic finance puts a fixed profit rate of sales in order to avoid delay in gharar different elements used in conventional loans. Although the determination of the Base Rate is determined by the Overnight Policy Rate but Islamic finance puts Contracted (Ceiling) Profit Rate (CPR) in the face of economic uncertainty in the future. CPR is a fixed profit rate by different Islamic financing with floating rates through interest rate advantage to changing the conventional financing. Recognizing the economic uncertainty, CPR set so as to minimize the risks borne by the banks, but in the meantime if effective Profit Rate does not reach the ceiling and when early settlement has done by customer, the Islamic banking give rebates to customers. The problem when it comes to the issue of giving a rebate linked to the concept of *da' wa ta'ajjal* banned by the majority of the scholars as resembling a usury. Although the Securities Commission Sharia Advisory Council (MPS SS) select minority view justify the concept of Islamic banking practices but not the same. Consequently, the rebate is not seen as a guarantee to the customer in the context of Islamic profit rate flexibility. The interest rate used in the variable profit rate in the conventional loan is seen more flexible. This study will examine the implementation of the rebates as collateral to the customer in a flexible profit rate determination Islam. It is a qualitative study with a literature review approach. While the process of data collection through analysis of documents. Data was analyzed by descriptive and comparative approach. The expected result of this research is to discuss the relevance of the rebate provisions in Islamic financing to be a guarantee to the customer in the initial payment. By implication, the implementation of the resolution rebate be an indicator of the rate of profit flexible Islam.

Keywords : rebate, *da' wa ta'ajjal*, profit rate, early settlement

Introduction

In this study involving rates of change that occurs after the full payment in advance, the Islamic banking has the right to give a rebate (*ibra'*) to customers. Granting such as measures to reduce the burden of the customer as well as a favorable alternative to solve customers' financing repayments made to the bank. Giving it makes a profit rate of the original contract signed in early counting period is derived based on the latest advanced than the original period is longer.

Accordingly, although originally been assigned a fixed profit rate but makes a profit rate rebate altered and reduced the value of the original amount of the payment to be paid by the customer. This mechanism as a step taken by the Islamic banking as conventional banking rival seen as more flexible in determining the profits can fluctuate based on the percentage rate of interest according to certain periods. In contrast to the Islamic banking has set a fixed profit rate makes when changing over the rebate as an alternative to reduce the amount of payments corresponding to the new period is shorter.

In this case, the rebate will reduce the rate of profit which was established at the beginning of the contract due to an earlier period than the original. It appears to have similarities and relate to methods *da' wa ta'ajjal* settle the debt in issue. The equation is seen from the point of origin due to a reduction in the total value of the original period accelerated. Researchers looked at the views of the scholars have studied this issue for a better understanding of the fundamental laws of the relevant rebate in relation to methods *da' wa ta'ajjal*.

This study wanted to see how flexibility can be applied for the benefit of Islam compete with the long-term benefits by conventional banking. Thus making welfare indicators in profit levels specified in the initial contract but specified.

Rebate According To Islamic Financial Perspective

From the point of language, which is the rebate for a word from the ba ra 'a (برأ) which means free, clean and away (Ibn Manzur, t.th : 7 : 272). From the point of the term, the rebate gives two meanings, namely: -

- i. Presented whole or part of the debt to the debtor.
- ii. Drop the title to be dependent on others.

Based on the definition of the term, meaning both the rebate provide similar but different implications from the point of implementation. Equations prevailing at the implications of the rebate is both the meaning of the original title refers to eliminate someone on something possession. While the difference between the two is the implementation of a mechanism in removing the original ownership either through gifts or drop the title voluntarily. The gifts then he dropped the title to be given new ownership is awarded to the person on it. It is no longer entitled to claim because the ownership has changed ownership. While the drop of ownership by eliminating the original rights in demanding the rights of the person responsible. It is no longer entitled to claim for the right to abortion was not performed.

Referring to the concept of the rebate occurs in two forms and both fulfill the meaning of the rebate. According to the researchers, both have their own conditions based on situations that can occur and it has to do with ownership and also abortion, namely abortion. Both of these concepts are also linked to the rights of the owners of a particular occurrence of a rebate or not. But its implementation is different. In the concept of ownership, the implementation of the rebate requires the approval of both receiving new ownership. As long as the new beneficiary approves the rebate process will not happen. This is because ownership will not take place without the consent of the other party. Unlike the concept of abortion, the rebate is automatically applied when the original owner the right to abort because it involves only one side.

There are two implications of the concept of rebates. The scholars differed concerning this matter and further scrutinize the implications of the two with some of the effects of implementation on three implications:

- i. Rebates are abortion

This opinion is the opinion of the majority of Hanafi, Shafi'i school of opinion in the long and accurate opinion in the Hanbali school. In this context, the rebate is subject to abortion rights are dependent on other people. Conversely, if these rights are not within the liability of someone like al-shufcah rights, then it is not considered a rebate, even considered abortion alone. Thus, the rebate viewed more specific than ownership.

- ii. Rebates are ownership in certain situations.

This opinion is an opinion that is mentioned by some scholars Shafi'i School. In this case, Zakariyya al-Ansari said: Even if the rebate is owned but is required of abortion.

- iii. Rebates are absolute ownership

This is the opinion of the rajih in Maliki as stated by al-Dasuqi. This opinion is also a new opinion in the Shafi'i School. Ibn Muflih quoted that part of Hanbali scholars state that the rebate is the property absolutely. They said: "if we agree that the rebate is abortion, then as if he (the creditor) has given the (debt) and then (outstanding balance) fall (from the debtor)" expression Ibn Muflih it still shows that the rebate has a purpose abortion even if it leads to the transfer of ownership of the subjects in the rebate.

Thus, the difference rebates implications either abortion or give the meaning of ownership make it a rebate cancellation or withdrawal of the rebate of the scholars are divided into two opinions:

1. Giving rebates can be recalled at any time as long as the recipient does not apply acceptance of rebates. Here, the rebate is meant by the transfer of ownership of the property. This is because ownership requires qabul to verify the legal transfer of ownership occurs. So before the acceptance, possession is not legitimate and can be withdrawn.
2. Giving rebates can not recall what the rebate because the rebate is intended to abortion that abortion rights. When someone has to drop his, then he is not entitled to withdraw because he is no longer entitled. This is because, abortion occurs by simply giving one-sided without the need for acceptance from both parties.

Definition of *DA' WA TA'AJJAL* according to islamic finance

Da' wa ta'ajjal is a process conducted by the creditor to reduce the debt on the debtor if the debtor pays the beginning of the period set. From the concept of the term as stated by the scholars are:

تَعْجِيلُ الدَّيْنِ الْمُؤَجَّلِ فِي مُقَابِلِ التَّنَازُلِ عَنْ بَعْضِهِ

Meaning: "Accelerate the repayment of the debt by accepting a reduction in the delay in part".

Based on the definitions of the following terms, *da' wa ta'ajjal* occur with 2 action, namely: -

1. Hire: reducing the deferred part of the debt to the debtor.
2. Receivables: speed up debt repayment delay of the period prescribed in the first place.

Difference view scholars about the *DA' WA TA'AJJAL*

The scholars of different views on the legal *da' wa ta'ajjal* : -

- i. It is not required. This is the majority view as argument *da' wa ta'ajjal* is compatible tricks occurrence. Their argument is that the similarity between the concept *da' wa ta'ajjal* with an usury on the corner of the forbidden. The form of this equation is a period or periods as the size of the fixation of a price. This is clear when an extended period then the price will be increased and vice versa when a shortened period then the price will be reduced.
- ii. It is required by the view 'Abbas Ibn al-Nakha'i, Abu Thawr and a history of Imam Ahmad bin Hanbal (Ibn Qudamah, al-Mughni, 7/21). It is required to be an alternative to release the burden of the debtor.
- iii. View scholars sect al-Shafi'i detailing the legal requirements if it so it is not legitimate because it has elements compatible tricks. But if it is not required then *da' wa ta'ajjal* is required.

Earlier scholars also discussed the question of the time value of money in problem of *da' wa ta'ajjal* also known as the *al-sulh al-dayn 'an muajjal bi al-ba'dih halan*. According to Ibn Qayyim, the concept of *da' wa ta'ajjal* means a person (the creditor) has the right debt on another individual (the debtor) wants to travel to another place while the debt that has not yet arrived. Creditors are worried their rights (the debt) will not be fulfilled while he also can not claim the debt is because of its duration has not yet arrived. The result is that some creditors want to reduce the debt while the debtor is also accelerating the payment of such debt. The jurists differ on the law *da' wa ta'ajjal* ie whether it is required by legislation or otherwise.

The difference of opinion stems from the accelerated time factor provided benefits in the form of money making it similar to usury (*riba*) theme in terms of the existence of the element of interest is the concept "give me my last pay more". These elements give meaning to the exchange between time with money and time is not a money, which can be contracted. The fact above shows that the most important issues of the time value of money is a similarity with *riba al-nasi'ah* is forbidden in terms of the existence of the essence of *riba al-nasi'ah* in allocating the money to specific time dimension as tough time dimension and immediately. Therefore, the majority of scholars forbid methods based on the principles of drawing *da' wa ta'ajjal* authentic as it is said to be the same as *riba al-nasi'ah* clearly in terms of mechanisme or form and essence the terms "substance" or meaning of existence usury in the method.

The argument that banning *da' wa ta'ajjal* is based on the hadith narrated by Miqdad bin al-Aswad :

أَسْلَفْتُ رَجُلًا مِائَةَ دِينَارٍ ثُمَّ خَرَجَ سَهْمِي فِي بَعْثٍ بَعَثَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقُلْتُ لَهُ : عَجِّلْ لِي تِسْعِينَ دِينَارًا وَأَحْطِ عَشْرَةَ دَنَانِيرٍ فَقَالَ : نَعَمْ فَذَكَرَ ذَلِكَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ : أَكَلْتُ رِبَا يَا مِقْدَادُ وَأَطَعَمْتُهُ

Meaning: "From al-Miqdad bin al-Aswad said: I have a debt to a man, then I have been chosen by lot to join the army sent by the Prophet, I said to him (the debtor): Pay as much as 90 dinars immediately and I will reduce it by 10 dinars. He mentioned this to the Prophet s.a.w. and he said: You have usury oh Miqdad and has fed an usury to someone else".

Al-Sarkhasyi in his book *al-Mabsut* also include a ban:

وَإِذَا كَانَ لِرَجُلٍ عَلَى رَجُلٍ دَيْنٌ إِلَى أَجَلٍ وَهُوَ مِنْ ثَمَنِ مَبِيعٍ فَحَطَّ عَنْهُ شَيْئًا عَلَى أَنْ يُعَجَّلَ لَهُ مَا بَقِيَ فَلَا خَيْرَ فِيهِ . . . لِأَنَّ هَذَا مُقَابَلَةُ الْأَجَلِ بِالذَّرَاهِمِ وَمُقَابَلَةُ الْأَجَلِ بِالذَّرَاهِمِ رَبَا ، أَلَا تَرَى أَنَّ فِي الدَّيْنِ الْحَالِ لَوْ زَادَهُ فِي الْمَالِ لِيُوجِلَهُ لَمْ يَجُزْ فَكَذَلِكَ فِي الْمَوْجَلِ إِذَا حَطَّ عَنْهُ الْبَعْضُ لِلْيُجْعَلِ لَهُ مَا بَقِيَ أَهـ

From the point of *da' wa ta'ajjal* concept is similar to the concept of usury. When deducting the value of the original debt for the accelerated period it refers to the exchange and purchase resemble. In the concept of usury lending, there is an increase in value due to the extended period of debt. The equation that applies is the value that can be reduced or increased pegged to a reduced or extended period. This is what makes it resemble a usury as a trick that happens is that the cause of the debt value increases or decreases.

Rational argument can be categorized into two parts, namely the argument in terms of the existence of usury (meaning) and the argument of the existence of usury outwardly:

- a. The existence of meaning compatible in *da' wa ta'ajjal*:

Example 1: If the creditor requested that the debtor pay in advance, and he will drop the remainder of the debt he had actually sold the al-death with the amount of debt that has been dropped. This is because the real war is like someone selling a term with the value of the excess to be paid. When the pay period has arrived, he said: "Add to my values and my debt would extend the period of time". The situation is no different from someone who said: "reduce the time period and the payment I will reduce the debt to be paid".

- b. The existence of a form of usury in the *da' wa ta'ajjal*

Example 1: In *al-Muntaqa Sharh al-Muwatta'* it is stated that the above methods are prohibited because they are owed as much as 100 dirhams to 100 dirhams counted bought the delay from debtors who pay in advance together with the reduction of 50

dirham in cash. This condition is not lawful for two reasons, the first is existend of *riba al-fadl* and *riba al-nasi'ah* of the same type (ie dirhams).

Example 2: What can be understood from Imam Malik's opinion on this issue is the method which is compatible with the speed of a (debt) are not required to be calculated al-muqbil it. He actually lend immediate of eg 100 dirhams so that he can settle the debt that the delay of 50 dirhams. And this condition is included in "قرض جر به نفعا".

Whereas the opinion of scholars who claim that the *da' wa ta'ajjal* is required is based on the following arguments:

Hadith narrated by Ibn 'Abbas that:

أَمَرَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِإِخْرَاجِ بَنِي نَضِيرٍ مِنَ الْمَدِينَةِ، جَاءَهُ نَاسٌ مِنْهُمْ فَقَالُوا يَا رَسُولَ اللَّهِ إِنَّكَ أَمَرْتَ بِإِخْرَاجِهِمْ وَلَهُمْ عَلَى النَّاسِ دُيُونٌ لَمْ تَجَلْ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ضَعُوا وَتَعَجَّلُوا

Meaning: "Ibn 'Abbas that the Prophet s.a.w Bani Nadir had ordered out of the city of Medina and some of them told him: O Messenger of Allah you take them out, while there are still many people who owe them. S.a.w Prophet then said: provide debt reduction and accelerate payment "

And the hadith:

عَنْ كَعْبِ أَنَّهُ تَفَاضَى ابْنُ أَبِي حَدْرَدٍ دَيْنًا كَانَ لَهُ عَلَيْهِ فِي الْمَسْجِدِ فَارْتَفَعَتْ أَصْوَاتُهُمَا حَتَّى سَمِعَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ فِي بَيْتِهِ، فَخَرَجَ إِلَيْهِمَا حَتَّى كَثَفَ سِجْفَ حُجْرَتِهِ فَتَادَى يَا كَعْبُ قَالَ لَبَّيْكَ يَا رَسُولَ اللَّهِ قَالَ ضَعْ مِنْ دَيْنِكَ هَذَا وَأَوْمَأَ إِلَيْهِ أَيْ الشُّطْرُ قَالَ لَقَدْ فَعَلْتُ يَا رَسُولَ اللَّهِ قَالَ فَمُ فَاقْضِهِ

Meaning: "Ka'ab reported that he has a debt that must be fulfilled by Ibn Abi Hadrad; where they talked about the debt in the mosque and they have raised their voice to be heard by the Prophet s.a.w who were in his house. He s.a.w out to both to look curtains of his room. He cried: O Ka'ab then said: Yes, O Messenger of Allah. He said: Lessen your debt -with some thereof--signal. Ka'ab replied: Messenger of Allah, I have done it s.a.w. The Prophet then said (to Ibn Abi Hadrad): build and settle your debt. "

Ibn 'Abbas r.a view *da' wa ta'ajjal* required with the following argument:

أَنَّهُ جَائِزٌ لِأَنَّهُ مِنْ بَابِ آخِذٍ لِبَعْضِ حَقِّهِ وَتَارِكٌ لِبَعْضِهِ

Meaning: "It (*da' wa ta'ajjal*) required for such a thing to take some of their rights and the release of others"

There is a response to the view that banning *da' wa ta'ajjal*. It is expressed through the explanation by Ibn Qayyim that has strengthened the view that the group requires *da' wa ta'ajjal* with the following conclusion: "There is no war in this issue either in terms of reality, language and custom. In reality usury is something that increases while this does not happen in *da' wa ta'ajjal*. Those who have been banned according the same meaning with usury, while there are significant differences between the words:

- "Whether you preferred payment (due to late payment) or pay debts (according to period)" - usury
- "I hasten to debt and as a reward, I'll cut your debt" - *da' wa ta'ajjal*

Where are the similarities between this word? Furthermore, there is no passage, an authentic consensus or drawing, which forbids this concept. "This view has also been adopted by us in relation to the concept of debt reduction. Academi of Fiqh Islam in the 7th meeting in Jeddah has decided that this method is *da' wa ta'ajjal* must not fall into the category of usury is forbidden. But this decision is applicable if *da' wa ta'ajjal* only occur between creditors and debtors, not to third parties. The reason they do not allow *da' wa ta'ajjal* use to third parties for fear it will be stuck in a reduction in the practice of conventional debt certificates (commercial papers).

Application of DA' WA TA'AJJAL in islamic finance in malaysia

Concept *da' wa ta'ajjal* is the action part of the debt the creditor when the debtor paid the balance of the debt early. This concept is important because it is based on this principle allow Islamic bonds traded on the secondary market, where the holder of these securities will be sold at a lower price.

In general method *da' wa ta'ajjal* is important in the development of Islamic corporate bondin the secondary market. Islamic bonds issued is based on the concept of *Ijarah, istisna', murabaha* and *mudarabah musharakah*. In order for these bonds traded in the secondary market, the holders of these securities will be sold at a lower price based on the concept of *da' wa ta'ajjal*.

The decision of the Securities Commission Sharia Advisory Council (MPS SS) has discussed the issue *da' wa ta'ajjal* in a series of meetings. At its 10th meeting dated October 16 to 17, 1997, SS MPS has agreed to adopt *da' wa ta'ajjal* to develop Islamic capital market instruments. The results of the study, believes that the concept of MPS SS *da' wa ta'ajjal* is required. This is based on the following arguments:

Hadith narrated by Ibn 'Abbas that:

أَمَرَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِإِخْرَاجِ بَنِي نَضِيرٍ مِنَ الْمَدِينَةِ، جَاءَهُ نَاسٌ مِنْهُمْ فَقَالُوا يَا رَسُولَ اللَّهِ إِنَّكَ أَمَرْتَ بِإِخْرَاجِهِمْ وَلَهُمْ عَلَى النَّاسِ دُيُونٌ لَمْ تَجَلْ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ضَعُوا وَتَعَجَّلُوا

That is: It was narrated from Ibn `Abbas that the Prophet s.a.w has ordered Bani Nadir out of the city of Medina and some of them told him: 'O Messenger of Allah, you take them out, while there are still many people who are in debt to them'. Then the Prophet said: 'provide debt relief and expedite payments.

And hadith by Ka'ab:

عَنْ كَعْبِ أَنَّهُ تَقَاضَى ابْنُ أَبِي حَدْرَدٍ دَيْنًا كَانَ لَهُ عَلَيْهِ فِي الْمَسْجِدِ فَارْتَفَعَتْ أَصْوَاتُهُمَا حَتَّى سَمِعَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ فِي بَيْتِهِ، فَخَرَجَ إِلَيْهِمَا حَتَّى كَشَفَ سَجْفَ حُجْرَتِهِ فَنَادَى يَا كَعْبُ قَالَ لَبَيْكَ يَا رَسُولَ اللَّهِ قَالَ ضَعْ مِنْ دَيْنِكَ هَذَا وَأَوْمَأْ إِلَيْهِ أَيْ الشُّطْرُ قَالَ لَقَدْ فَعَلْتُ يَا رَسُولَ اللَّهِ قَالَ فَمُ فَاقْضِهِ .

Meaning: Ka'ab reported that he has a debt that must be fulfilled by Ibn Abi Hadrad; they talked about the debt in the mosque and they have raised their voice to be heard by the Prophet Muhammad, who was in his house. Then the Prophet came out to both to look curtains of his room. He exclaimed: 'O Ka'ab!' Ka'ab then answered: 'Yes, O Messenger of Allah.' He said: 'subtract your debt.' (With a signal portion there of). Kacab answer: 'I have done it, Messenger of Allah.' The Prophet then said (to Ibn Abi Hadrad): 'Get up and settle your debt.'

Rebate application analysis in the context of *DA' WA TA'AJJAL*

Rebate part of the debt through payment or settlement tough early practiced in the Islamic banking system today really have in common with the concept known as *da 'wa ta'ajjal*. According to al-Subki, methods *da 'wa ta'ajjal* means "someone who has a formidable debt burden is still in others, the debtor to the creditor, said:" abort some of you, and I hasten payment of the balance; or creditor to the debtor said: hasten payments in part to me, and I will omit the rest. "

This issue has been debated in the books of jurisprudence in detail. Apparently jurists disagree about the law of *da 'wa ta'ajjal*, but they disagree about it as follows:

- i. There must be absolute, whether conditional or unconditional. This is the opinion of the majority of scholars.
- ii. Must be absolute, whether conditional or unconditional. This is the opinion of a small number of scholars.
- iii. Must if unconditional, and not have to if conditional. This is the opinion of some Hanafi and Shafi'i.
- iv. Must be in debt bondage (*dayn al-kitabah*). This is the opinion of some scholars, Hanafi and Hanbali.

Based on the diversity of opinions of scholars over, and see the rebate application within the context of Islamic banking in Malaysia, this study will classify the form of rebates in *da 'wa ta'ajjal* into three, namely:

1. Rebate tough part of the debt without any conditions.
2. The rebate part of the debt is tough for a non-binding agreement (*ghayr mulzim*).
3. The rebate part of the debt through binding agreements and requirements.

The Rebate Part Of The Debt Is Tough Without Any Requirement

The first form of this can be seen in the situation of the bank provide for discretionary rebates or voluntary (*tabarru'*) to customers who make an initial payment even if no requirement or initial approval occurs between both the bank and the customer. For example, a customer has a debt with the bank - due to tough trading contracts - which must be paid in installments over 10 years. After five years, the customer wishes to make full payment of the debt incurred. In this case, banks give rebates to customers for early payment is made, even if no claim is made by the customer or no requirements apply when the contract was signed.

Rebate application within this context allowed by the majority of Hanafi and Shafi'i. However, Imam Malik did not allow any form of rebate for early payment of its absolute (whether conditional or not) to close the road to the usury.

This opinion was adopted by Majma' al-Fiqh al-Islami in resolution no. 66/2/7 concerning the sale and purchase in installments during the 7th conference on 9-14 May 1992 equivalent 7-12 Zulkaedah 1412 which reads :

"Abortion is a tough debt, due to expediting payment, either at the request of the creditor or debtor, (*da' wa ta'ajjal*) is allowed according to Islamic law. It does not fall within the category of usury is forbidden if no prior agreement, and if the relationship between creditors and debtors mutual. In the event of third party intervention, then (*da' wa ta'ajjal*) is not allowed, because it would take legal discount securities (sale of debt to third parties)."

The Rebate Part Of The Debt Is Tough For A Non-Binding Agreement (*Ghayr Mulzim*)

The bank has pledged to provide a rebate to the borrower if he makes an early settlement of debt. However, the agreement is made not binding, but it is based on the discretion of the bank. Examples Rebate applications. This form can be seen in most of the financing is made by Islamic Banking Institutions (IPI) in Malaysia. Rebate clause usually explicitly stated in the Product Terms and Conditions or the Offer Letter.

Rebate applications through non-binding promises are formulated based on the current practice of rebates in the context of Islamic banking institutions (IPI) in Malaysia. Rebates in this form are not significantly different than in the rebate without the requirements that have been discussed above, because of the effect of both is the same, the rebate will only be given to borrowers who make early repayment of the debt voluntarily or at the discretion of the bank.

In this case, although there is agreement and the terms of the contract, no legal action can be taken on by the bank if the bank refuses to fulfill his promise to give rebates to customers because the rebate is placed entirely on the bank's discretion and suitability. Terms of the rebate in the form of unilateral context that seem favorable to the bank alone. Inclusion rebate clause in the terms of the agreement such as the above is just to show the commitment of the bank to give rebates, despite the fact that he did not bring a different effect if the clause is not included.

The rebate part of the debt through agreements and requirements

Rebate on parole is the essence of the debate on the *da' wa ta'ajjal*. This because of a dispute whether *da' wa ta'ajjal* allowed or not rests with the requirements made. Examples of *da' wa ta'ajjal* conditional is the bank - based approvals and agreements concluded - must pay a rebate to the borrower's initial payment to the debtor if the debt is made resilient. In this case, the borrower debtor is entitled to claim a rebate promised if early payment is made, or the payment of the remaining debt was a result of defaults.

In this case outlined disagreements on legal scholars *da' wa ta'ajjal*. The majority of scholars forbid it because it opens the door of usury. While a minority of scholars requires it because it is different with laptops as claimed but it is included in the context of welfare with creditors waive some rights to the debtor. From the point of banning opinion, the researcher will not repeat and extend it because obviously it is not allowed whether conditional or not. And yet from the point of necessity by a minority of scholars have seen on a number of conditions that involve placing a condition on the grant of a rebate. This is because the binding conditions can cause the rebate policy change which originally welfare to the sale and purchase agreement with a money exchange period is reduced. Even the opinion of al-Shafi'i, which requires the provision also when it does not involve the conditions of granting rebates.

The issue of the rebate in the *da' wa ta'ajjal* terms mean have two possibilities, namely:

- i. Terms of rebates made to the expedition as tough debt payments.
- ii. Terms of rebates made in advance during a tough sale and purchase agreement.

According to the Shafi'i School, the conditions to cancel the rebate is made in line with the requirements of expediting the payment of debts. Conversely, if the conditions are created in advance during the sale and purchase agreement, the conditions allowed. This can be seen clearly in the writings of al-Subki which states that:

"Conditions are canceled as the conditions, if (condition) first, then do not be revoked."

In the context of the rebates applied by Islamic banks in Malaysia, most banks take the approach include the clause granting rebates as terms and conditions of the sale and purchase contract agreement, rather than expediting payments made when done. Therefore, this measure is consistent with the view Shafi sect] i. However, the inclusion of a clause that the parties - as it was based on a mere discretion - has led to conflicts, especially in case of default.

Inclusion rebate clause with calculated based on the formula in the agreement document should also be discussed whether selling goods can raise issues with two different prices. This is because customers who owe will pay a price lower than the selling price as diaqadkan whether in the case of default or early settlement. Such transactions may trigger the issue dikhuatitri two contracts into one contract that had been forbidden by the Prophet Muhammad in the hadith which reads:

Meaning "prohibits Messenger (combined) debt with the loan transaction, and two transactions in the sale and purchase agreement for the purchase and sale and purchase something that is not owned, and profits are not borne risks"

And the hadith:

Meaning: "Whoever makes two transactions in the sale and purchase agreement must choose the lesser, or usury"

Meaning ban the sale and purchase transactions in the first hadith as described by al-Tirmidhi is:

Meaning: "Scholars interpret two sale and purchase transactions in the contract is the seller said, I sell these clothes to you at a price of 10 pence to 20 pence in cash and tough, and the buyer does not split (end transaction) with one price".

Thus, the ban is actually two transactions because there is no provision in the form of the sale price of the goods with two prices can trigger elemem gharar banned. Conversely, if one price is set, then the transaction is allowed. For example, the seller said, I sell these clothes at a price of 10 pence in cash and 20 dinars for respite. And buyers are saying: I will buy this shirt at a price of 10 pence in cash. So in this case the purchase is allowed. Likewise, if the buyer says, 'I will buy this shirt at a price of 20 dinars for respite.

Conclusion

The researcher believes that the views of the majority of the inconsistencies is actually apart from not want to open the door as wide as possible thousands of practitioners usury intrinsic base is also due to legal issues debated. For example contract based on

trading in Islam *al-bay'* such agreement is built on the principles of justice, while the contract based on volunter such as loan contract is built on the principle of charity. Both the principle of justice and charity are different in concept and its application in Islamic finance. Conceptually, justice refers to the completion of a rights and responsibilities of the mandatory or minimum level while charity referring to enhance the rights and responsibilities of the circumcision which exceeds the level required.

In the issue that occurs when the rebate merely discretionary seen it only guarantees the welfare of the seller or financier or bank alone without customers. This is because the cost of delay is higher than the cash price due to economic uncertainty in the future. Accordingly, the long-term benefits are put at a ceiling level which will minimize the risk to be borne by the bank and called Contracted Profit Rate. But the question is if the current market value or the Effective Profit Rate in the coming period will not reach the ceiling level then it is not as if the customer was laid new burdens due to the resolution on the ceiling while the market value is lower than that. Here makes seamasa market value has soared mere preliminary agreement that was even subjected to the risks that apply to the customer.

That also applies to the issue of the initial payment when the customer must pay the market price higher than the market price seamasa based on length of urgency. The rebate is either included in the clause merely discretion without any guarantee because it is not a statute. Researchers see it will generate two negative effects in the market, namely:

- i. The burden of the new risks exist that should not happen and it is covered by one side of the customer.
- ii. The increase in the market price which is not in accordance with current market standards due to the promise at the beginning of the contract alone. While counting long-term profitability is assessed through a period of time. There will be a period of 10 years is the same as the last 20 years while the initial count prior to the contract provision is different based on the length of a term or long-term installments that. At the same time it will contribute to an increase in market prices from time to time.

According to the observations, putting the item price after the rebate based on the reduction should be made in this case because the rebate is calculated part of the purchase contract for dimnan. The result is that the rebate here take the contract law such as consent and acceptance which ensures the absence of *jahalalah*. Price after the rebate based on the grace period should also be communicated to the customer to avoid any *gharar* and *jahalalah* possible. In fact, such pricing will also clarify the terms of the deferred period of time in return for a specified price.

According to Ibn Qudamah, Abu Yusuf and Muhammad said that the wages of the above is to be informed on the grounds of wage benefits for each job (ie compensation for work commenced on the same day and on the next day) is informed and clear.

Thus, the provision of rebates that better meet the needs maqasid al-sharia is not creating new risks which encumbered by customers and standardization of the current market value with no surge in prices rather than the standard valuation of time as a result because the agreement at the beginning of the contract alone without refers to the current value. So in this case, researchers tend to rebate must be a guarantee that is included as a condition in the initial contract was done as a guarantee for the welfare of customers as well as the long-term benefits that will be required is a form of guarantee to the seller, financiers or bankers.

Rebate on the issue of early repayment must ensure that the current market value based on the current period with the count tied to the Overnight Policy Rate under the supervision of Bank Negara Malaysia (BNM). It is to ensure that the standard value of an asset has to offer. If not, the surge in prices will soar from time to time and will lead to asset price exceeds the market level. For example, long-term financing for a terrace house for 25 years is RM xxx, xxxx. If the initial payment is made in the last 15 years without fixing the rebate is actually the situation has caused a surge current market price should be lower based on the last 15 years instead of 25 years. Another long-term effect, when the home is to be sold nor the price is essentially a price on the last years of the 25th rather than at current market value according to the period of the 15th year. This situation indirectly worsened the economic situation with the price hikes were not in line with current market standards.

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